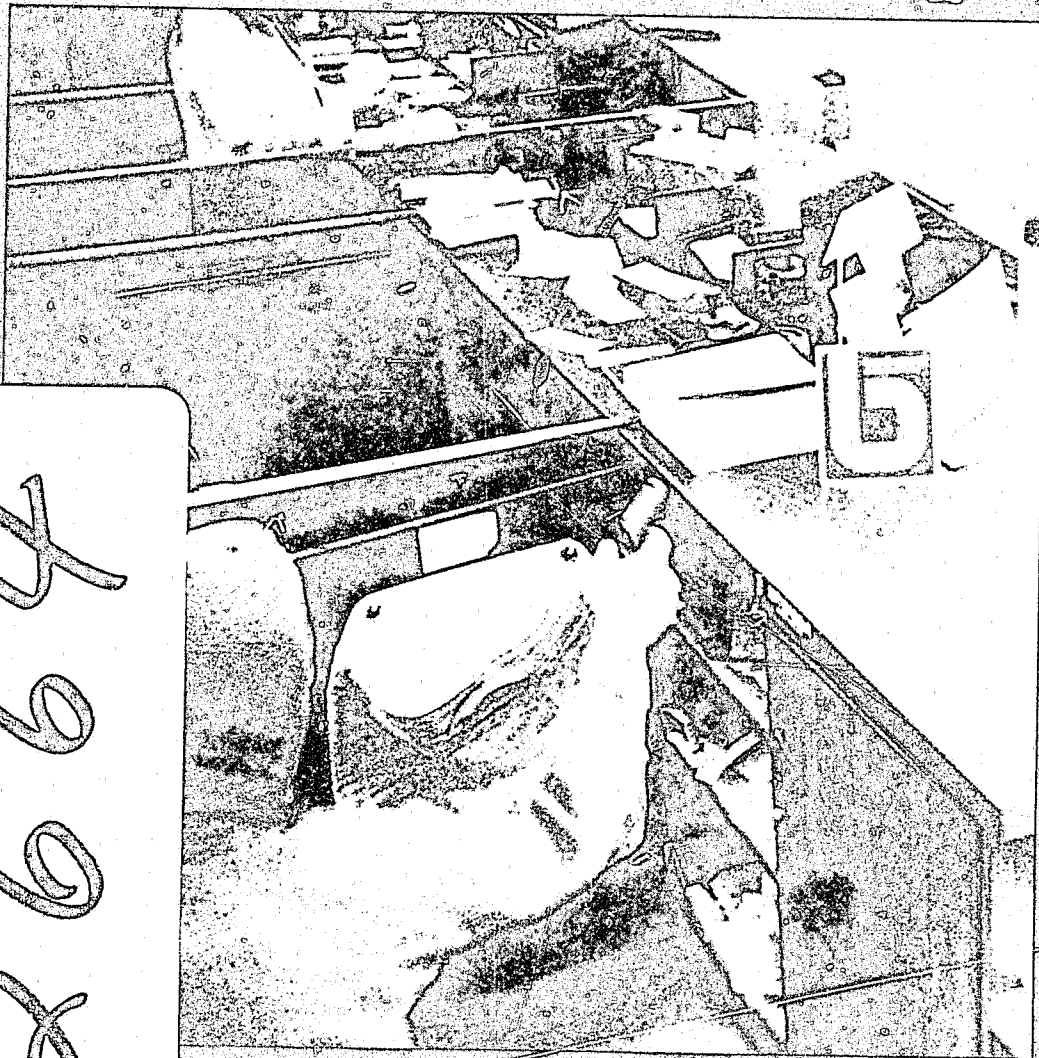


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FIREARMS
AND VIOLENCE
IN
AUSTRALIAN LIFE



RICHARD HARDING

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U.S. Department of Justice
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FIREARMS AND VIOLENCE IN AUSTRALIA SOCIETY

To what extent is Australia an armed society? How far does the ownership, use and misuse of guns affect the quality of life? Will the Australian position come to resemble that of the United States, where the levels of gun ownership are so high that 'the resultant patterns of use have become destructive, volatile, self-perpetuating and intractable'? In this book—the first comprehensive study of the impact of gun ownership upon Australian life—Richard Harding attempts to answer these and many other questions.

Working from survey material, the author is able to estimate the number of gun-owners there are and how many guns of what sort they own. He draws a profile of Australian gun-owners—'very much part of the mainstream of society'—but calls attention to some disturbing factors such as the generally low level of training and safety-consciousness and the growing propensity to acquire firearms for purposes of self-protection. He analyses the phenomena of gun murder and armed robbery, and concludes that 'the single most important objective of firearms laws should be to keep the handgun inventory down to the bare minimum'.

The use of guns in suicide and the unnecessarily high fatal accident rate are examined, as is the police use of firearms in the course of law enforcement. The book concludes with proposals for the reform and co-ordination of gun-control laws throughout Australia, reform which is crucial if the problems we already have are not to coalesce into one large and unmanageable social problem.

Richard Harding is Associate Professor of Law at the University of Western Australia. His previous books are *Police Killings in Australia* (1970) and *Outside Interference: the Politics of Australian Broadcasting* (1979).

FIREARMS AND VIOLENCE IN AUSTRALIAN LIFE

*An Examination of Gun Ownership and Use
in Australia*

RICHARD HARDING

NCJRS

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To Cathy, Joe, Ben and Louise

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FOREWORD AND ACKNOWLEDGMENTS

The work described in this book arose naturally out of my earlier preoccupation with police use of firearms. Police authorities themselves frequently express concern about the levels of citizen ownership of firearms and the increasing difficulties of their role in a community where gun use is becoming more common. How well founded are such fears, I wondered.

In Australia, it was not possible to discover a ready answer. Indeed, the most elementary data were lacking; it was not even known how many private citizens owned guns, let alone what the total gun inventory was. It followed that nothing at all was known about the Australian gun-owner: why he owned a gun, how he acquired it, what sort of social or economic group he came from, whether he was trained in the use of firearms, whether he possessed a desirable degree of safety-consciousness, etc. In fact, a search of the literature seemed to indicate that no research had previously been done anywhere to enable the profile of the gun-owner to be drawn.

Accordingly, in 1973 I approached the Criminology Research Council for funds to carry out a pilot survey in Western Australia. By 1974 this had been completed; the methodology worked well enough to justify proceeding to the stage of a national survey. The logistics of such an undertaking were such, however, that it could not be carried out by a single researcher perched precariously on the very edge of the continent.

Fortuitously, the Australian Bureau of Statistics was gearing up to conduct a national General Social Survey. In those heady days of 1974, when Canberra bureaucracies were starting to behave as if the orthodox were simple and the unorthodox feasible, I was able

to prevail upon the bureau to incorporate my firearms questions into the pending survey.

Subsequently, difficulties arose. The change of government which occurred in late 1975 led to cutbacks and re-allocation of priorities in all service departments, including the bureau. The processing of my firearms data was evidently relegated to a place so humble as to be barely visible or audible. Indeed, there was at one stage a suggestion that it should be abandoned altogether. I am grateful to those unsung heroes within the bureau who held out against this. From mid-1977 data began to dribble through, culminating in October 1979 with the bureau's own official publication of the data.

Meanwhile, it had become apparent that, because of omissions from the General Social Survey sample, there were holes that had to be plugged. Accordingly, in early 1978 surveys were carried out on my behalf in the rural areas of New South Wales and South Australia by a market research organization. Once more, this was funded by a grant from the Criminology Research Council.

The analysis contained in this book draws, therefore, upon all the survey material: Western Australia 1973-74, the General Social Survey 1975, New South Wales 1978 and South Australia 1978. In addition, material supplied by Police Departments and various other governmental agencies has been drawn upon, particularly in chapters 7 to 11.

This work having taken, on and off, a period of almost seven years, there are inevitably many persons to whom acknowledgment should be made. They are so numerous that not all can be mentioned; but any whom I omit will understand that their assistance was nonetheless much appreciated.

First and foremost, I must thank the Criminology Research Council and those who have been its members from time to time since 1973. The Council has been generous with its financial backing and, even more important, with its moral support. When delay was at its most frustrating, the Council could have been forgiven for wondering if it had backed a lame horse. But it remained patient, understanding and supportive. I hope that it will feel that its support has been vindicated. Within the Council, Mr David Biles gave me tremendous assistance and encouragement.

I would also like to thank the Australian Bureau of Statistics. Numerous people were involved at one time or another; I hope they

will forgive me if I single out Mr Colin Proud (during the pilot study stage in particular) and Mr Mike Giles.

The actual writing of this book was done whilst I was on sabbatical leave at the Centre for Criminological Research, Oxford University. I would like to thank the Director of the Centre, Dr Roger Hood, and all my colleagues whilst I was working there. My working situation was ideal, facilitating a task which had become more daunting with delay. I would also like to thank Mrs Violet Goodwill, who typed the manuscript.

There are numerous individuals who also helped me immensely. They include Professor Gordon Hawkins, of Sydney University Institute of Criminology; Dr Paul Ward, also of that Institute; Mr Greg Woods, of the New South Wales Criminal Law Reform Committee; Dr Jeff Sutton of the New South Wales Bureau of Crime Statistics and Research; his predecessor, Dr Tony Vinson; Assistant Commissioner David Hunt and Superintendent Laurie McEvoy, of the South Australia Police Department; Mrs June Durston, of the University of Western Australia Psychology Department; Dr Paul Wilson, of the University of Queensland; Dr Bob Donovan, of R. J. Donovan and Associates; and Mr Colin Greenwood, now a private consultant but formerly of the West Yorkshire Constabulary.

Some colleagues who have read this book in manuscript have made the point that it fails to deal with the psychological significance or the anthropological explanations for gun ownership. This is perfectly true. Frankly, I doubt my own competence to contribute anything more than superficial banalities to such themes; the cobbler should stick to his last. What I hope this book will provide—for the first time in Australia and more comprehensively than has ever been done in any other country—is a factual foundation upon which others may build. It would be pleasant indeed if a multi-disciplinary library of Australian literature about gun use and ownership were to be stimulated by this book, and even more pleasant if society and legislators responded to the insights of such literature.

R. W. HARDING
Perth, October 1980

1

A LEGAL CONSPECTUS

INTRODUCTION

Regulation of firearms ownership did not seem a high priority to the early free settlers. Opening up a new country, they regarded guns as everyday tools, necessary for a variety of legitimate purposes.¹ It was, of course, inevitable that they would be illegitimately used from time to time—whether by bushrangers plundering other settlers or by Tasmanians exterminating Aborigines—but this could hardly be a basis for prohibiting their possession as such. Indeed, so obvious did this seem that, at the various Constitutional Conventions, it was not even mooted that the wide-ranging enumerated powers of the Commonwealth should include a power to legislate with regard to firearms. Guns were not then perceived by the States as a problem, let alone one upon which it was desirable to ensure that a common line could be taken.

Consequently, there are numerous sources of firearms laws in Australia. All six States and both Territories have legislative power with regard to their respective jurisdictions. The Commonwealth also possesses relevant legislative powers, in particular the defence and customs powers of the Constitution. In addition, there are provisions—notably the free trade guarantee—that may affect the particular manner in which a State or Territory exercises its primary law-making function. The key point is that there is abundant opportunity for divergent development of firearms laws in Australia; and this has in fact occurred.

The law-making process, after some initial early flurries, began in earnest in the twenties, with Australia well-settled, recovering from war, urbanized and entering the Depression. In the decade

1921-32 all States and both Territories enacted their first substantial firearms control laws.² The primary concern was with handguns, which were seen as instruments of crime. At this time only one State, Western Australia, showed a comparable concern for other lethal firearms, such as rifles and shotguns.

This round of law-making was also marked by concern with some odd demons. In Western Australia, for example, the rights of Asians or Africans to hold firearms licences were severely circumscribed—unless they were 'of the Jewish or Lebanese races'.³ However, that State did at least repeal in 1931 comparable provisions that had hitherto applied to Aborigines.⁴ But, in the very same year, the Northern Territory was introducing discrimination against Aborigines.⁵ Victoria, meanwhile, was worrying itself about the sabbath; even the purest Aryans were not to carry or use firearms on Sundays, a proscription later enthusiastically emulated by Queensland legislators.⁶

During the succeeding twenty-five years or so, all jurisdictions tinkered in some way or other with their firearms laws. The grosser forms of racial discrimination disappeared, for example. But fundamental patterns remained much as before. However, during the last twenty years, with Australia by now an even more highly urbanized society, the need was apparently felt to modernize the law. During this period both Territories and four of the States have made important changes to their legislation;⁷ and in a fifth State, Tasmania, plans to amend the law have reached an advanced stage.⁸

For the most part, although the issue of the use of firearms in crime is an occasional item on the agenda of the twice-yearly meetings of the commissioners of the Australian police forces, these changes have not been co-ordinated. There has been nothing which one could describe as a common strategy, indeed no articulate agreement on the proper objectives of firearms control legislation. The sorts of pressure which have produced more or less similar State and Territory laws in relation say, to the regulation of traffic, and uniform laws in relation to the conduct of companies, have evidently not been paralleled in relation to firearms. There are some broad similarities, of course, but the dissimilarities are no less striking. It was, presumably, this which led Senator Lionel Murphy, when he was Commonwealth attorney-general, to call for uniform firearms laws;⁹ but his call went unheeded.

It is not the purpose of this book to set out exhaustively the minutiae of the particular firearms laws of each separate Australian jurisdiction. The aim is to highlight the issues which have concerned legislators and the various policies they have pursued—to capture the essential flavour of the extant laws. In attempting to do so, one must look to a veritable rag-bag of sources: principal laws, amending laws, peripheral but related laws, statutory regulations, amending statutory regulations. As in so many other areas of law, most jurisdictions have allowed a situation to develop where the sources are so numerous or so obscure that the ordinary citizen cannot realistically be expected to be able to ascertain what the operative law actually is. This problem is compounded by the fact that superior court litigation has been extremely sparse,¹⁰ whilst inferior court litigation can seldom be pinpointed; thus the true meaning of the written laws often remains somewhat obscure. This, in turn, leads on to the important observation that a great deal of administrative discretion is vested in Police Departments (as licensing authorities), discretion which in practice it is difficult for the firearms user to challenge or for the researcher to document.

Nevertheless, it should be possible to capture enough of the flavour to evaluate whether the principal problems posed by the ownership and use of firearms in the community are being fairly and effectively tackled by the legislative means which have been made available. It is with these problems, or perhaps they are only issues, that the remainder of this book is concerned. A legal conspectus is the necessary backdrop to such discussion.

1. HANDGUN LICENSING

A. Basic Control Patterns

All States and Territories require persons who wish to own and possess handguns to be licensed. The terminology adopted is generally that of a 'pistol licence', a notion which encompasses all handguns including revolvers. The common denominator is thus that such firearms are concealable.

In all jurisdictions, each handgun must be the subject of a separate licence. This may be contrasted with the most common legal situation in relation to long-guns; here, typically, a shooter once licensed may acquire as many firearms of the permitted type as he wishes, without being subjected to further licensing procedures.

Clearly, there is a policy that handgun ownership and possession in the community should be kept under the closest scrutiny, both because of the potential use of such weapons in crime and because the legitimate occasions for multiple ownership are less obvious than in relation to long-guns.

Implementation of this policy is fortified by registration systems. In all States and Territories handguns must bear a unique serial number, which it is an offence to alter or deface. In most jurisdictions it is specifically required that the registrar of firearms (who is the commissioner of police everywhere except in the Australian Capital Territory, where a civilian official holds this office) shall keep a register of handgun owners and the firearms which they hold. In Queensland and New South Wales, such a requirement is not explicit; but the mechanics exist for the compilation of such a register.¹¹

Generally, there are provisions aimed at preventing a handgun slipping out of the records. For example, in several States it is an offence for a pawnbroker to accept a handgun as a pledge, and in all jurisdictions dealers' records must be kept in a manner laid down by the registrar. Licences are typically for one year only; thus not only can the grant of a licence readily be reviewed annually, but also such contingencies as the death of a licensee should not go unremarked for an excessive period. Changes of ownership—by gift, private purchase, etc.—must also be registered, at which point the licence status of the recipient is put in issue.

B. Criteria for Obtaining a Licence

It should be stressed at the outset that in no jurisdiction is there a *right* to a licence, however impeccably one apparently meets the statutory criteria. The legal starting-point is that an applicant is seeking a privilege which the sovereign power, acting through the registrar, may grant or withhold. Once more, the contrast is with long-guns where, in some jurisdictions, the law is framed in terms of a duty upon the registrar to grant a licence to a qualified applicant unless there is some reason to the contrary.

Age. All States have set eighteen as the minimum age of lawful ownership. Until 1977 South Australia had been out of line, setting the traditional age of majority, twenty-one, as the applicable minimum. However, both Territories still adhere to this concept.

Cause. In five jurisdictions—New South Wales, Victoria, Queensland, Western Australia and the Northern Territory—an applicant for a handgun licence is required to show 'good cause' or 'substantial reason'. What amounts to this is not generally specified in the legislation, though in Queensland and Western Australia active membership of a pistol club approved by the registrar is specifically included in the notion of good cause. No modern case law seems to have fleshed out the concept; such appeals as there are by disappointed applicants generally terminate at the level of petty sessions. Accordingly, police administrative practice is the predominant operative source of law in this area. Unfortunately, police authorities are extremely reluctant to make known their internal instructions and policies in such areas. However, the Western Australia Police General Instructions for the Administration of the Firearms Act 1973 and Regulations captures what seems to be the general tone:

Concealable Weapons

At a conference of Police Commissioners . . . it was unanimously agreed 'that the strictest possible control be exercised to prohibit the possession of lethal weapons by members of the public, and that permission to possess and carry them be granted only in exceptional circumstances'.

The foregoing resolution is intended to apply principally to concealable firearms, such as pistols and revolvers, and also to military weapons.

It is the policy of the Department to curtail as much as possible the issue of licences to possess concealable weapons, and exceptionally good reasons (verified as far as possible) must be given for requiring possession thereof. A report of the facts in each case is to be submitted to the Officer-in-charge, Firearms and Inquiries Branch, and his instructions received before the licence is issued.

When an application is made by a private person . . . it is necessary that a detailed character report of the applicant is submitted, also full Christian names, age, date of birth, so that records can be checked . . .

Frequently, when applications are made to license concealable weapons, the reasons given for requiring them are merely stated in general terms and, therefore, are very vague; details must be obtained and the information verified from other sources where practicable. These Instructions are to receive strict attention.

Fit and proper person; no danger to the public. Of course, even

an applicant with a good cause may be unsuited, temperamentally or otherwise, to possess a handgun. All jurisdictions, except the A.C.T., require that the registrar satisfy himself that the applicant is a fit and proper person and/or that his possession of a handgun should not endanger the public safety or peace. Clearly, if an applicant might be thought to pose danger to the public through criminal misuse, this is the best possible reason for refusing him a licence. Unfortunately, professional criminals are not wont to make formal applications for handgun licences, and casual criminals—i.e. the majority of those who commit or attempt to commit murder—will almost never be able to be identified before the event from the information which can be gleaned about their previous ways of life. Some States simply treat *any* criminal record as cogent evidence of unsuitability; Queensland even goes as far as to specify that prostitutes are not fit and proper persons. No empirical data provide any support for such value judgments, however.

A more mundane, but substantial, danger to public safety arises from the accidental misuse of firearms. It may, accordingly, be apposite to anticipate at this point an issue which will be comprehensively developed in chapters 7 and 8—that of the training and safety-consciousness of gun owners. Can one say that a completely untrained person is one who is 'fit and proper' to be granted a licence, for a handgun or any other kind of firearm? From the available data, it seems quite clear that he is not. About half as many Australians are killed or maimed each year by accidental as by deliberate criminal misuse of a firearm. Public perception of this problem may well be that it is a much less menacing social phenomenon than criminal misuse. Nevertheless, in measurable terms of personal loss and social cost, it is a matter of genuine significance.

That being so, should not licensing authorities insist on some demonstration by applicants of their practical competence—not in the sense of their skill as marksmen but in terms of their appreciation of what *not* to do with firearms—before they treat a person as fit and proper to be granted a licence? It is my belief that they should. However, as will be seen, no more than lip-service appears to be paid to this idea, even though the legal formula would certainly justify a stringent approach. Possibly the police—whose daily concern is with potential *criminal* harm to society—are not best placed to appreciate and to act to forestall accidental harm.

Other criteria designed to eliminate high-risk applicants. Three States—Victoria, Queensland and Tasmania—specify that applicants who are intemperate or mentally unstable should not be granted licences. Clearly, such factors could equally well be encompassed within the general criterion of being a fit and proper person. The procedure for assessing this involves, in the first instance, asking the applicant himself whether he possesses these disqualifying traits. His response will be checked, at least to the extent that his intemperateness or mental instability has previously manifested itself in a way which has been recorded in official data.

Two jurisdictions—New South Wales and the Northern Territory—focus also on known previous misconduct in relation to firearms. Each provides that, in certain circumstances, a previous conviction under the applicable firearms legislation should be a disqualifying factor. The circumstances are: in New South Wales, if the conviction has led to the imposition of a firearms prohibition order, and, in the Northern Territory, if it has resulted in a sentence of imprisonment. Of course, firearms convictions not falling into these categories can also be taken account of under the fit and proper person criterion.

General criminality has already been mentioned in relation to Queensland. There the formula is so wide that, applied literally, it would operate so as to disqualify an applicant with a twenty-year-old conviction for having parked too near a fire-hydrant; presumably, it is not in fact applied in such a way. New South Wales, more realistically, takes account of any criminal conviction which has led to a sentence of twelve months or more imprisonment, release from which occurred within the previous five years. Victoria likewise provides that a person convicted of an indictable offence, sentenced to three months' or more imprisonment, shall be disqualified from holding a firearms licence of any kind for five years from the date of release. Once more, the fit and proper person formula permits convictions not falling within these provisions to be taken account of in New South Wales and Victoria, as can all kinds of convictions in the other jurisdictions.

The position in the Australian Capital Territory. The law simply provides that a handgun licence may be granted 'as the Registrar thinks fit'. Such a vague formula obviously would enable him to take account of any of the factors which have been examined above, or indeed virtually anything else that seems to him to be

relevant. Any possibility that the criteria he decides to apply at any given time might in fact be more lax than those in the rest of Australia is obviated by the fact that the objection of the police commissioner to any given applicant acts as a veto to the grant of a licence by the registrar. As the Western Australian document, quoted earlier, makes clear, police authorities have agreed upon a common policy of restricting handgun licensing throughout Australia. Whilst the number of handgun licences held in the A.C.T.—4100—is somewhat higher than the national average rate, it nevertheless is low enough to indicate that the authorities are adhering to the national policy. But the exact basis of its operation is shielded from view.

C. Procedural Machinery

The position in the A.C.T. has already been referred to. In all other jurisdictions the commissioner of police is directly responsible for the licensing function. Obviously such a function will normally need to be delegated. However, in the case of handgun licensing—as opposed to the licensing of other firearms—there is a distinct trend not to permit delegation to go too far down the line, or out into the bush. For example, in Western Australia only the commissioner himself or an officer gazetted for this purpose may grant such a licence. In practice, only the officer-in-charge of the Firearms Branch is usually so gazetted. The function is seen as a sensitive one, and thus jealously guarded. In New South Wales the applicable regulations permit delegation likewise only to senior command personnel—the deputy commissioner, the senior assistant commissioner, other assistant commissioners, the superintendent of licences and the officer-in-charge of the Firearms Registry. The Queensland procedure emphasizes the possible crime implications of handgun ownership by placing the head of the C.I.D., Brisbane, at the key point of the licensing system, with no provision for further delegation.

What all the procedures seem to have in common, therefore, is that policing judgments are the crucial ones, and decisions should be taken with great circumspection.

D. Appellate Structures

In all jurisdictions, provision is made for an appeal against

refusal of a licence or, in the case of the A.C.T., against a police veto.¹² The usual route is to petty sessions, typically with a requirement that it be constituted by a stipendiary magistrate rather than lay justices. In such cases, no statutory guidance is offered as to the onus or quantum of proof nor as to the criteria for a successful appeal. This, doubtless, reflects the fact that compliance with the statutory criteria does not afford the applicant a *right* to a licence; it merely gets him to first base so that he may be considered for the privilege. Generally, the applicable legislation contains some such formula as 'the court may make such order as it thinks fit'.¹³

Queensland, as in so many other matters, possesses a highly idiosyncratic formula; appeal may be made to the minister whose decision—made, apparently, according to whatever criteria he likes to adopt—is final. In New South Wales and the Northern Territory the appellate decision is also final, but at least it will have been made by a court of law. In the other jurisdictions it seems that appeal from petty sessions is possible in accordance with the generally applicable law. In principle, therefore, one could hope to see a body of Superior Court case law build up in at least five jurisdictions; but, as mentioned previously, this has not in fact occurred. The practical effect has been that Police Departments and potential applicants have received almost no judicial guidance upon the permissible limits of administrative discretion in this area of the law. However, the machinery does exist for the future growth of case law concerning this important topic.

If a disappointed applicant is to have any realistic chance of success at the first level of appeal, he needs to know why his initial application was rejected. It could be for almost any reason—for a laudable one, such as a known propensity to resort to domestic violence, or for an improper one, such as the fact that the local Special Branch holds a file or card upon him.¹⁴ It could be for something mundane, such as possessing defective night vision, or something more dramatic, such as previous involvement in an accident involving firearms. If he does not know the basis of the refusal the applicant will be thrashing around in the dark in conducting his appeal. Indeed, he may be dissuaded for that reason alone from appealing at all.

Western Australia law specifically provides that a disappointed applicant is entitled to be informed, in writing, of the grounds of the refusal.¹⁵ In the other jurisdictions, the law is silent on this

point. However, I understand that it is common practice to indicate, in general terms, the reason for refusal. By contrast, in Queensland it is standard practice *not* to give reasons, and it seems highly probable that the courts would support such a stance.¹⁶ Of course, the Queensland position is coloured by the fact that the 'appeal' is to a politician, rather than to a court.

Before 1977 South Australia fitted easily within the general patterns described above—appeal to petty sessions, reasons for initial refusal not mandatory but likely to be known, appellate onus and quantum of proof unclear and the criteria vague, theoretical possibility of further appeal, virtually no reported case law. However, the 1977 Firearms Act—proclaimed on 1 January 1980—has introduced a novel concept into the administration of firearms licensing law. It could form a future model for law reform in other jurisdictions, and merits reasonably full description therefore.

Its starting-point is that whilst a handgun licence, or indeed any other kind of firearms licence, is a privilege, it is not one which should be withheld merely at whim. If it can be so withheld, the liberties of citizenship start to become infringed. The manner of the exercise of administrative discretion by the police should, accordingly, be subject to effective external monitoring. Existing appellate procedures appear to be moribund, and though they should be retained in the hope that they recover their vitality they should be supplemented by a new procedure.

The Firearms Act therefore has established a Firearms Consultative Committee. It comprises three persons: one nominated by the police commissioner, one who is a legal practitioner of at least seven years' standing, and one who possesses wide experience in the use and control of firearms.¹⁷ Whenever the registrar (i.e. the commissioner of police) considers that a licence should not be granted to an applicant, for whatever reason, 'he shall refer the matter to the consultative committee, and if the committee concurs in his opinion that the licence should not be granted, he may refuse the application'.¹⁸ If the committee does not support the registrar, then it seems that he must grant a licence. The applicant is entitled to put his case to the committee 'orally or in writing', as indeed is the registrar.¹⁹ The committee's procedures are to be informal, and losing applicants shall not be liable to have costs awarded against them. Provisions such as these are obviously calculated to encourage ordinary people actually to utilize its procedures. There is no

explicit provision for its decisions to be made public, however; perhaps it is hoped that whilst it will build up a body of experience and knowledge, it will continue to treat each case on its individual merits and not become strait-jacketed by its own case-law precedents.

The consultative committee possesses parallel functions in relation to the non-renewal or the revocation of a firearms licence. Similarly, it can review the whole range of decisions that can be made concerning other types of licence covered by the act, notably dealers' licences.

At the time of writing, it is premature to attempt to evaluate this novel procedure. But its philosophy is certainly striking—that applicants for firearms licences are entitled to have their applications dealt with in as fair and objective a manner as is reasonably possible. South Australia has thus moved away from the prevailing Australian model of virtually unchallengeable discretion in the administration of firearms licensing.

E. Permits to Purchase

As handgun licences are issued to a particular person in relation to a specified gun, the licensing system has to cope with the mechanics of linking the licensee to his gun without there being a stage at which he is in breach of the law. The normal device is that of a 'permit to purchase', or a 'buyer's certificate', or an 'approval to purchase pistol certificate'. Whatever the terminology, the approach is the same; such a permit will only be granted according to the same criteria as the licence itself and the seller must sight such permit before transferring a handgun to the buyer. When the transaction is complete, although technically a licence could still be withheld, it will in fact be granted as long as the handgun itself is not unsafe or of a prohibited kind. This system ensures that licensing authorities possess maximum control and knowledge from the very outset of a decision to seek to acquire a handgun.

F. Continuing Control: Renewal and Revocation of Licences

Generally, handgun licences are for a period of a year only. The normal expectation of a licensee who has not misconducted himself in some relevant way is that his licence will be renewed upon pay-

ment of the requisite fee. Indeed, some jurisdictions provide specifically for late renewal, not treating persons who have been a little dilatory in this regard as being unlicensed for the purpose of offences under the applicable laws.²⁰ Nevertheless, to hold a licence does not confer upon one a vested right to renewal. Thus, if a change of policy is decided upon—for example, so as no longer to regard sentimental associations as a 'good cause' for owning a handgun—the police authorities can begin to implement this as licences expire.

Misconduct or changed circumstances during the currency of a licence can also be dealt with by way of cancellation or revocation. This serves to emphasize further how tenuous is the position of the licensee. Of course, he can appeal against revocation, or indeed against non-renewal, in the same manner as he can appeal against refusal of a licence in the first instance.

In some jurisdictions, a court which convicts a licensee of an offence against the applicable firearms legislation may revoke his licence. The more common pattern, however, is for this sanction to be reserved to the police authorities, to be exercised as they think fit in the light of the court proceedings.

G. Exempt and Special Categories

The foregoing patterns relate to the position of the ordinary private citizen in seeking to hold a handgun licence. However, there are numerous categories of citizen whom the law treats differently, on account of the strength of their presumed legitimate need.

Military personnel. All jurisdictions exempt all members of the defence forces from all aspects of their firearms licensing laws. This is not just because of their presumed needs but mainly because of the constitutional predominance of the Commonwealth in this area, under the defence power. Any attempt to extend the application of State firearms laws to military personnel would inevitably run headlong into section 109 of the Constitution.²¹

Police of the particular jurisdiction. Some jurisdictions exempt their own police altogether from general firearms legislation. This is not necessarily sensible or proper. Although one can presume that, as far as police authorities themselves are concerned, all police are 'fit and proper persons', it does not of course follow that, *qua* private citizens, they will possess a 'good cause' for owning a hand-

gun. Moreover, insofar as they may require a handgun for duty purposes, they should be issued with them subject to the control and discipline of their superiors, not encouraged or permitted to fend for themselves by acquiring and using private handguns. Astonishingly, this practice has prevailed in the Northern Territory, as the Australian Law Reform Commission reported in 1975:

The possession of *private* firearms, including handguns, is apparently almost universal in the Northern Territory [police] force. Such weapons are used in lieu of the official issue. It must be said that there does not appear to have been a higher incidence in the use of firearms in arrests, or of police shooting incidents generally, in the Northern Territory. Nevertheless, the present practice was the subject of a number of complaints to the Commission. We were told of unhappy incidents in and around Aboriginal Settlements, involving the firing of weapons in order to announce the arrival of a police officer, or to prematurely 'cool down' a situation. We were told that the panic and alarm which such behaviour engendered might at any time be expected to touch off a serious incident. We were told of a resentful reaction to the conduct of policemen walking around with guns on their hips, like 'cowboys'. The Chief Magistrate for the Northern Territory, Mr D. A. McCann, expressed his own concern on this subject in the case of *Police v. Mangulagula*, decided in the Darwin Court of Summary Jurisdiction on 21 May 1975:

I find it inconceivable that police officers should carry their private pistols when on official duty. Surely if it is deemed necessary that police be armed, the Commissioner of Police should ensure that there are regulations controlling when police officers are armed, provide arms and ensure that the use of those arms is controlled. The use of private arms by police officers seems to cut directly across the proper control of firearms and their lawful use by police officers.²²

The whole question of the adequacy of legal control over police use of firearms will be separately considered in chapter 12. Any practice which weakens that control, and any legal provision which enables this to occur, are certainly to be regretted.

Police of other jurisdiction. It is not unusual for one jurisdiction to treat police of other jurisdictions as exempt from firearms-licensing requirements. The rationale for this is obscure. To be a sworn police officer in, say, Victoria confers no law enforcement

status beyond that of a private citizen in, say, New South Wales or the Australian Capital Territory. Possibly, such provisions are no more than a gesture of fraternal confidence. If so, it is misguided; the regulation of handgun ownership is too important a matter to be treated in this way.

Other persons engaged in aspects of law enforcement. There is a trend, recognizable if less well defined, to exempt other persons involved in aspects of law enforcement from licensing requirements. Victoria has gone furthest in this regard. For example, prison officers whilst on duty are exempt from the provisions of the act; so too is the rag-tag collection of licensed guards and watchmen. In New South Wales, a comparable effect to the latter is produced by the widespread practice of conferring the status of special constable upon such persons; for specials, like other policemen, are exempt from the operation of the act.

Persons engaged in certain aspects of commerce. Most jurisdictions require bank managers to seek a licence for the bank gun in the same way as other applicants; however, the good cause is readily established and a licence unquestioningly granted. Once this has occurred, the common statutory pattern is that employees of that bank, acting under the manager's authority, do not require a licence for that handgun. The rationale for all this relates, of course, to law enforcement. Later, it will be seen that bank guns are quite ineffective for this purpose, however.

A purely commercial rationale explains the exemption of such persons as carriers, warehousemen or auctioneers who from time to time may come into temporary possession of a handgun in the course of their business. However, to the extent that they are engaged in the transfer of ownership, as an auctioneer normally will be, there is reposed in them the responsibility of sighting a purchaser's documents of authorization.

Persons licensed in their home States. A practice seems to have developed—though in no instance does it appear to be written into the applicable legislation—whereby each jurisdiction will not consider anyone except its own residents for firearms licences.²³ That being so, it is understandable that each should, to some extent, take note of licensing assessments which have been made by the others. This appears to be a matter of mutual courtesy, rather than something required by the constitutional demands of full faith and credit.²⁴ The South Australian provision is fairly typical:

Any person who is ordinarily resident outside the State of South Australia who:

- (a) is temporarily within the State of South Australia, and
- (b) is currently licensed to carry, possess or use a firearm pursuant to the law of the Commonwealth or a State or Territory of the Commonwealth or of the country in which he ordinarily resides,

shall be entitled, so long as the licence remains in force, subject to any restrictions or conditions stated in the licence, to carry, possess or use in the State of South Australia a firearm of any classification that the licence authorises him to carry, possess or use, without being required to be licensed or to register such firearms pursuant to the Act, provided that such firearms are not dangerous firearms.²⁵

Any such person is required to carry his home-State licence with him. The notable features about this approach are that it is self-executing—i.e. there does not have to be any application or notification to the South Australian authorities—and yet it retains some recipient-State safeguards. Thus, if the South Australian notion of a 'dangerous firearm' is contravened, it is no answer to say that the weapon in question is not dangerous according to the notions of the licensing State.

An alternative approach is for the recipient State to treat a home-State licence as a strong *prima facie* basis for permitting the licensee to possess and use his firearms in the recipient State. For example, in the particular context of handguns, Western Australia takes this approach. Out-of-State members of shooting clubs wishing to visit Western Australia for an organized shooting competition may accordingly apply for an interstate group permit, and this will be granted, without payment of fee, for a maximum period of twenty-eight days. This entitles each nominated member of the group to carry and use his firearms in Western Australia during the specified period.²⁶

Provisions such as the foregoing raise the issue of whether it will ever be feasible to have what is, in effect, a national firearms-licence system. This issue will be discussed in the concluding chapter.

Pistol clubs. It is generally recognized that shooting as a test of skill is a legitimate activity if carried on at a pistol club. For example, in Western Australia membership of such a club is, as already mentioned, *prima facie* a good cause for obtaining a

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licence—an approach which is followed in several States. Similarly, the usual age limits applicable to handgun use may be relaxed in relation to pistol club members using firearms at pistol club premises. The policy generally embraced by the legislation is, therefore, that this sort of firearms activity can be regulated with a greater sense of trust towards the shooter.

Children. Even outside pistol clubs, it is recognized to a certain extent that parents may desire their children to participate in shooting activities for which they themselves are licensed. For example, in South Australia a child of any age may lawfully use a registered firearm for which his parent or guardian holds a licence as long as the parent/licensee directly and continuously supervises the activities of the child while he retains possession of the firearm.²⁷ In the Northern Territory the law goes even further in that it permits *any* registered owner of a firearm to instruct any child in the use of a firearm with the consent of the child's parent or guardian.²⁸ The policy underlying such provisions appears to be based on the notions that early training in firearms use is a good thing and that if the parent or the supervising adult can be trusted to handle a firearm, so too can his child.

Most States at present prefer to treat the question of handgun use by children as depending upon whether they themselves meet the licensing criteria, rather than whether their parents or guardians meet them.

H. Silencers

In all jurisdictions it is an offence to possess a silencer for a handgun. Clearly, whatever the basis upon which one first obtained a handgun licence, there is no conceivable legitimate use for a silenced firearm.

I. Constitutional Inhibitions upon the Power of the States and Territories to Create a Comprehensive System of Licensing for Handgun Ownership

The excursus which follows concerns section 92 of the Constitution. It is, in principle, applicable to licensing laws relating to any kind of firearm. However, it is discussed here for two reasons. First, as handgun licensing is the area where all jurisdictions seek to

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regulate firearms ownership most stringently, it is here that the practical import of the limitations upon their powers is greatest; second, in any case the legal issue was first litigated in the context of handguns.

*Coghlan v. Fleetwood.*²⁹ This 1951 case concerned the scope and lawful operation of the Pistol Licence Act then in force in South Australia. A New South Wales resident, who did not hold a pistol licence under that act, placed an order by post for a pistol with a South Australian dealer. The pistol was sent to him by post from South Australia and delivered in New South Wales. The South Australian dealer was charged with having sold a pistol to an unlicensed purchaser, contrary to the provisions of the act.

He argued that section 92—the free trade and commerce clause of the Constitution—operated so as to invalidate the South Australian act to the extent that it purported to cover interstate sales such as the one in question. The South Australian Supreme Court gave short shrift to this plea, invoking uncritically and without any analysis the doctrine of State police powers. Napier C.J. stated:

Whatever the section may forbid, it leaves to each State the power to regulate the traffic in such things as pistols, narcotics or other things that are a menace to public safety if they come into the hands of the wrong people . . .

Under our federal system, it is for each State to regulate the conduct of its own inhabitants and the trade and commerce carried on within its borders. In the result, there may be some interference with trade and intercourse between the States.³⁰

*Chapman v. Suttie.*³¹ This High Court decision, twelve years later, leaves *Coghlan v. Fleetwood* in tatters, if not formally overruled.³² The case concerned a series of sales made in apparent contravention of the Firearms Act 1958 of Victoria. As under the South Australian Pistol Licence Act, all prospective purchasers of handguns—even those resident in other States—were *prima facie* required to possess a firearms licence if anyone, and specifically dealers, were to be lawfully entitled to sell firearms to them.

In one of the cases, a resident of Western Australia wrote to a Melbourne dealer seeking to buy a Luger .38 pistol; a price was agreed, and the pistol was sent to him by post. The other six cases litigated in the same action were comparable, though one involved a personal order in Victoria followed by postal delivery and

another involved a postal order followed by delivery by carrier. The High Court held (four to one) that such transactions were protected by section 92, whatever the purported effect of the Victorian Act. Taylor and Owen JJ. stated:

there is not the slightest suggestion that any sale possessed any feature which took it out of the ordinary course of business or that, in any case, the firearm was required for any purpose that could be regarded otherwise than as legitimate. . .

Nor, in our view, are there any valid grounds upon which it can be asserted generally that firearms are not legitimate articles of commerce or that those who deal in them are not engaged in trade and commerce.³³

The Victorian act was, then, pro tanto invalid. The only thing that would have saved it would have been provisions that conferred a *right* to a firearms certificate upon out-of-State residents, 'except in cases where a refusal would not impair the Constitutional freedom accorded to inter-State trade'.³⁴ But the act, regulations and administrative practice placed such obstacles in the way of non-residents obtaining a firearms certificate that the scope of section 92 protection was contravened.

Of course, this decision has no bearing upon the right of the State of residence to impose firearms-licensing requirements upon its own residents. Victoria could not prevent the transaction taking place by which the Western Australia resident acquired his Luger .38; nor could Western Australia do so. But what Western Australia could proscribe was the act of possession of that firearm within the State, except in accordance with the firearms law of the State. It is highly probable that the particular purchaser needed a licence to possess that pistol, and by no means unlikely that he did not in fact possess one.

This point serves to emphasize the fact that co-ordinated national legislation can readily plug the gap that section 92 seems to create—a point which will be developed in the final chapter in which some proposals are put forward for reforms of the law relating to firearms ownership.

It is also, perhaps, of interest to note that several jurisdictions still contain provisions in their laws which, if challenged, would be held to contravene the principles enunciated in *Chapman v. Suttie*.³⁵

2. PROHIBITED WEAPONS

There are some firearms for which no private citizen can ever have a legitimate use. No question of licensing them arises; they are simply prohibited and their possession is an offence. No one (except the military forces) is exempt from the sort of legislation which is typically found in every jurisdiction.

The Western Australia list is not untypical. It is:

machine guns; hand grenades; mortar guns; Bazooka guns; Armalite AR7 rifles; all fully automatic firearms; all firearms designed to discharge teargas; any semi-automatic self-loading rifle; and weapons of a military type, other than such rifles chambered for .22 rimfire cartridges or target-rifles for use on premises of an approved rifle club.³⁶

Of course, weapons other than firearms may also be prohibited, and some States list these in the same legislation as deals with firearms. For example, New South Wales proscribes a gruesome-sounding collecting of maces and flails and metal whips.³⁷ However, such items are not the concern of this book.

3. RIFLE LICENSING

Any rifles which fall into the category of prohibited weapons under the applicable legislation are, of course, excluded from the narrative which follows. For example, the Armalite AR7 is commonly categorized in this way, as are rifles of a military type. Another, almost universally prohibited, example is that of a folding rifle.

In addition, the Northern Territory creates a category of 'high-powered firearms'; they are licensable, but only on the same basis as handguns. The criterion of 'high powered' is that a rifle is centre-fire rather than rim-fire.³⁸ Western Australia reaches a similar position by administrative edict rather than on the basis of explicit legal differentiation; such rifles will only be licensed with extreme reluctance.³⁹ This policy has been able to be implemented because the licensing basis for *all* rifles in that State is identical to that for handguns.

The ballistics basis of this approach seems to be that, on the whole, centre-fire cartridges are fired with a greater muzzle velocity than rim-fire cartridges; this, in turn, is evidently equated with

greater dangerousness. However, many ballistics experts would consider such a basis of definition to be anomalous. The range of a weapon does not depend simply on the muzzle velocity with which cartridges are fired; nor do all centre-fire cartridges possess a greater muzzle velocity than all rim-fire ones. Moreover, other elements going to make up overall dangerousness—such as the propensity of a cartridge to ricochet—bear very little, if any, relation to the mode of priming the cartridge.

It is not proposed to enter into this debate. The point, for my purposes, is that whilst licensing authorities evidently perceive a problem here, it is one upon which there seems to be a need for more research than has so far taken place.

A. Basic Control Patterns

Provisions as to licensing and registration show greater disparity by jurisdiction than with handguns. At one end of the scale, Western Australia requires all rifle owners to be licensed, the licence is for one gun only, that gun must be registered, and the general criteria are the same as for handguns. At the other end of the scale, Tasmania and Queensland require no licences for rifles, nor need they be registered. Of course, even in those States there is some restriction on possession and use; in Tasmania it is an offence for anyone under sixteen to possess a rifle, whilst in Queensland the minimum lawful age is seventeen. However, in Queensland there is provision for persons below that age to obtain a police permit to possess a rifle.

The remaining jurisdictions fall between these two extremes. In Victoria, New South Wales and the Australian Capital Territory, a shooter's licence is required; in each case it is for multiple weapons, and in no case is there a supporting registration system for the weapons themselves. In South Australia, however, all rifles must be registered, even though the shooter's licence is for multiple weapons. The Northern Territory likewise focusses on recording the current ownership of rifles by a registration system, but its scheme leaves a gaping hiatus in that no shooter's licence is required. Consequently, whilst a particular person may be denied the right to register a rifle in his own name because of some disqualifying characteristic, there is nothing to prevent his using registered weapons owned by others, if they permit him to do so.

B. Licensing and Registration Criteria

Western Australia is the only State which adheres unequivocally to the position adopted in relation to handguns, that the grant of a licence is a privilege only. In the other jurisdictions which require a licence, there seems to be, to varying degrees, some expectation that if the statutory criteria are met, the applicant will be entitled to a licence. Victoria, for example, provides that the commissioner of police *shall* grant a licence if he is satisfied that the applicant meets the prescribed standards.⁴⁰ Of course, 'satisfied' is a word with subjective connotations—but one which would readily enable appellate courts to decide whether, in refusing a licence, the commissioner had been unreasonable in not being satisfied. The presence of the word 'shall' facilitates such a construction.

The provisions of New South Wales and the Australian Capital Territory are a little more equivocal. One can nevertheless say that, in each case, the statutory policy leans more towards the granting of licences than in the case of handguns. As for South Australia, one can anticipate that the role of the Firearms Consultative Committee, described earlier, will be more liberal in relation to Class A and Class D firearms (i.e. rifles, and also airguns) than in relation to Class C firearms (i.e. handguns).

Age. Most jurisdictions follow the policy that citizens can be permitted access to rifles at an earlier age than to handguns.

Table 1.1
MINIMUM AGE OF LAWFUL POSSESSION

	Handguns	Rifles
N.S.W.	18	18
Victoria	18	18
Queensland	18	17
South Australia	18	15
Western Australia	18	16
Tasmania	18	16
Northern Territory	21	16
A.C.T.	21	16

The two States which adhere to the same normal minimum age—

Victoria and New South Wales—each have generous provisions for younger persons to use rifles under the supervision of licensed shooters, Victoria requiring the formality of a permit for this to be done.

Cause. Only two of the jurisdictions which require rifle-owners to be licensed also require applicants to demonstrate some good cause or substantial reason. These are Western Australia and Victoria. As with handguns, what amounts to good cause is left somewhat vague.

Fit and proper person. Four of the five licensing jurisdictions—Western Australia, Victoria, New South Wales and South Australia—require that the applicant be 'not unfit to hold a licence' or be 'a fit and proper person'. As mentioned in the context of handgun licences, such a provision could form the basis of a stringent practical test of some kind. However, lip-service only has been paid to this aspect of firearms safety; licensing authorities remain unduly impressed by such factors as criminal records, to which application forms usually address themselves.

As with handguns, the law of the Australian Capital Territory is silent as to this criterion.

Other criteria designed to eliminate high-risk applicants. The same four licensing States address themselves to this question. Western Australia, once more, has identical provisions as for handgun licensing, though in administrative practice the system is less stringent. Victoria, which specified intemperance and mental instability in relation to handguns, retreats to a more generalized formula for a shooter's licence; the applicant must not 'otherwise be unfitted to be entrusted with the handling, use and care of firearms of the category referred to in his application'. However, the application form in fact addresses itself to the very same factors as for handgun licences. New South Wales refers to the same criteria as for handguns, specifying that the applicant should be able to be trusted with firearms 'without danger to the public safety or peace'. However, it does not appear that any serious attempt is made to evaluate this, beyond checking previous criminality. Finally, South Australia leaves the door open for denial of a licence to high-risk applicants, with the Firearms Consultative Committee poised to provide guidelines to indicate what this should encompass.

The Australian Capital Territory is, again, silent. The Northern Territory, as mentioned above, leaves a wide hiatus inasmuch as

high-risk shooters may lawfully use the registered firearms of other persons.

Scale of control. From the foregoing, it could be said that a scale of purported control of rifle ownership and use, by jurisdiction, is as follows:

1. Western Australia
2. South Australia
3. Victoria
4. New South Wales
5. Australian Capital Territory
6. Northern Territory
7. Queensland
8. Tasmania.

The disparity between the more restrictive and the less restrictive jurisdictions is very much greater than with handguns. It cannot really be said that there is an identifiable national policy, or even a co-ordinated approach, underlying the laws.

C. Procedural Machinery

In the licensing jurisdictions, the procedure is similar to that applicable to handgun licensing. However, as noted earlier, the limits upon delegation which are found in relation to handgun licensing are not paralleled in relation to rifle licensing. The latter is evidently regarded as a less serious responsibility.

In the Northern Territory, the police are required before they register a rifle to be satisfied that it is 'safe and fit for use'. This would seem to require a physical inspection at the time of registration.

D. Appellate Structures

As with handguns the licensing jurisdictions make provision for an appeal against refusal of a licence or, in the A.C.T., against a police veto. In the Northern Territory there is likewise provision for appeal against refusal of registration. Once more the applicable laws are silent as to the onus and quantum of proof and the specific criteria of a successful appeal. Presumably, the fact that there appears, in several jurisdictions, to be something more nearly resembling a right to a licence if the applicant meets the statutory criteria

will affect the manner in which appeal courts deal with cases which reach them.

The same problems as previously described exist with regard to notification of the grounds of refusal.

E. Continuing Control: Renewal and Revocation of Licences

In the licensing jurisdictions, this parallels the provisions applicable to handgun licensing; however, it is not uncommon for the possible duration of a licence to be three years, as in Victoria. In the Northern Territory, there is provision for registration to be revoked.

F. Exempt and Special Categories

In the licensing jurisdictions, these likewise parallel those applicable to handgun licensing, but in some respects go further. For example, shooting galleries—places where the general public may indulge in casual, fun shooting at targets—are accorded special treatment. Some jurisdictions simply exempt them from the normal operation of the legislation; others, such as Western Australia, require that the owners obtain a specific licence to operate them. The latter approach seems preferable; it is a device by which the quality of the equipment and the mode of operation of the gallery may be kept under supervision. In any event, all jurisdictions seem to recognize that such shooting is a legitimate social activity which is best treated with a light legislative touch.

The position of primary producers is also a matter of special concern; for the man on the land a rifle or a shotgun is a work-tool, and realistic laws must recognize this. Western Australia treats farming needs as constituting good cause for licensing, though exacts the full fee; Victoria has created the notion of a 'farm permit', which is granted virtually as of right and without fee; South Australia, New South Wales and Victoria make special provision for use of long-guns by persons below the normal lawful age of possession on agricultural property. These responses to the genuinely special position of the farmer are fragmentary; there is a case for thinking the issue through and evolving a coherent total policy. This point will be referred to again in the concluding chapter.

There is another, very important, special category, existing in relation only to the use of rifles. This is the network of rifle clubs established under the Australian Rifle Club Regulations.⁴¹

Under section 24(1) of the Defence Act, the governor-general is empowered to make regulations providing for and in relation to:

- (j) the formation and management of rifle clubs;
- (k) the formation, incorporation and management of rifle associations;
- (l) the promotion and management of a council consisting of representatives of rifle associations.

Regulations were first made in 1931; important amendments were made in 1948, 1968 and 1976.

The original purpose and structure of these clubs was closely tied in with defence notions. Thus, the secretary of the Department of Defence was specifically vested with residual authority for the general organization of such clubs; only British subjects were eligible for membership; members were required to take an oath of allegiance; members became ipso facto part of the Military Reserve; 'vulnerable point guards' could be formed from members; provisions existed for various subsidies to be paid to clubs and their members by the Defence Department; it was specifically contemplated that club rifle ranges might be used by members of the regular military forces. Over the years, the formal military links have been modified somewhat. Subsidies are no longer payable; vulnerable point guards have been abolished; the secretary of the Department of Defence is no longer concerned with the general organization of the system of clubs.

Of course, the formal source of authority for the regulations remains the Defence Act, and the minister for defence remains therefore the responsible minister. Yet this does not reflect accurately the present reality. In a letter to the author, a spokesman for the department has written as follows:

There has been a transfer of effective control of the movement to the National Rifle Association. In this latter respect, the Australian Rifle Club Regulations do not reflect the current position. For practical purposes, control of rifle club activities is in the hands of the National Rifle Association, rather than the Minister for Defence and his Departmental and Service officers.

The Regulations were amended in 1976 to repeal much obso-

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lete material, to take account of the 1976 re-organisation of the Department of Defence and to up-date the remaining provisions to a limited extent. Even as amended, however, the Regulations still do not reflect the current situation regarding the sole responsibility of the National Rifle Association.

Bearing in mind this qualification, the apparent structure of the clubs is as follows. A director of Australian rifle clubs, appointed by the minister, is responsible for the control and administration of such clubs. Answerable to him with regard to day-to-day supervision of the clubs are inspectors; these functionaries are now presumably civilians, though in the original scheme they were military personnel. Membership is a key matter over which the inspectors exercise authority. This arises in the following ways.

Initially, if it is sought to establish a club, at least thirty males, of Australian citizenship, between the ages of sixteen and sixty, resident in the area in which it is desired to set up the club, must sign an application form and submit it to the inspector.^{41a} In strict law, the minister then decides, with the advice of the inspector to assist him, whether that application will be granted; however, in practice it appears that the National Rifle Association will now make that decision. Assuming a club is set up, the inspector exercises considerable responsibility for individual membership. He must approve applications for membership, receive notifications of death or resignations, and even decide, after due inquiry and for good reason, to remove a member's name from the roll of the club.⁴² Theoretically, there may be an appeal to the minister against such a decision, but the reality presumably is that the ultimate tribunal is the National Rifle Association.

The formal authority of the association is to co-ordinate the activities of State rifle associations (in turn set up to represent the clubs set up in the particular State) and to advise the minister on a variety of matters relating to the competition and other shooting activities of clubs. Its formal status is greater than that of comparable organizations such as the Australian Small Bore Rifle Association, and its practical role is apparently pre-eminent.

Rifle clubs established under the regulations have been and continue to be an important element in the Australian shooting scene. There are approximately 450 full-bore clubs with a total of some 9000 members; in addition it is thought that the membership of small-bore clubs is no less than that.

A Legal Conspectus

Table 1.2

FULL-BORE RIFLE CLUBS AND MEMBERSHIP, BY STATE
31 DECEMBER 1979

State	Clubs	Members
N.S.W.	131	2708
Victoria	120	1730
Queensland	70	1565
South Australia	56	1024
Western Australia	59	1646
Tasmania	21	239
TOTAL	457	8912

For legal purposes, the main point is that to the extent that a State law, in its practical operation, conflicts with the operation of a club established under the regulations, that State law is void. This is so even though the practical purpose of the clubs is no longer primarily that of defence; there is still a sufficient nexus for the regulations and the structure created in consequence of them to be *intra vires* the Defence Act. Thus, to take a practical example, the Victorian provision that normally restricts possession and use of a rifle to persons of eighteen would be of no effect with regard to a club member of sixteen shooting on club premises. Nor, indeed, would it cover the conduct of that member in carrying his rifle from his home to the premises of the club. However, if the sixteen-year-old decided to go on a hunting trip with some friends, the Victorian act would certainly cover conduct so unconnected with the purpose of rifle club membership.

Licensing authorities are sensitive to the possibility of a conflict which has constitutional overtones. The South Australian attitude perhaps epitomizes their concern; co-operation of the clubs and the National Rifle Association is sought, not demanded, in an effort to make local firearms legislation as effective as possible. However, the time may be drawing near when such relationship should be placed on a more formal basis, by dint of co-ordinated Commonwealth-State legislation.

4. SHOTGUN LICENSING

In all jurisdictions, shotgun licensing is equated with rifle licensing. However, in South Australia a shotgun licence is placed in a different class from a rifle licence; thus, although the general licensing provisions are identical, the machinery exists for the evolution of a distinct policy, i.e. through the Firearms Consultative Committee.

The choice which has been made in Australia was not an inevitable one. The British approach, for example, has been to treat rifles on the same basis as handguns, thus being subject to stringent licensing requirements, and shotguns differently, subject to less demanding criteria.

5. AIRGUNS

The legal patterns in this area are varied. If there is a common trend it is, as one would expect, that there is less legislative desire to control ownership of airguns than of any other weapon. However, recent South Australian initiatives make even so broad a generalization a little dubious.

At the top of the scale is Western Australia. As far as that State is concerned, airgun ownership is no less in need of regulation than ownership of explosive firearms. South Australia has now moved almost to that position. Before 1977 airguns were outside legal regulation; however, the legislation of that year specifically included airguns within the definition of 'firearm'.⁴³ Henceforth airgun owners will need to be licensed and their guns registered. The general criteria will be the same as for long-guns; airguns are placed within the same class as .22 rim-fire rifles. However, the possibility exists, as always, for a distinct licensing policy to evolve.

Both New South Wales and Victoria start from the point that airgun ownership should normally be outside licensing requirements. But each recognizes that airguns are sufficiently dangerous to justify some intervention into their use by children. Accordingly, children below the age of fourteen are prohibited from using them at all, except under adult supervision or on private land. In Victoria, a person between the ages of fourteen and eighteen may obtain a junior permit for use of an airgun on his own account.

New South Wales and Victoria also recognize that because of

developments in airgun technology, there are some which on account of their power or range should be treated as if they were rifles; these are 'pump-up' and fully automatic airguns. A licence must be obtained in the usual way for such weapons.

In the Australian Capital Territory, an airgun is a 'firearm' for the purposes of the Gun Licence Ordinance; accordingly, owners must be licensed in the usual way. In the Northern Territory the letter of the law requires airguns to be registered; however, it is likely that this prescription is honoured mostly in the breach. In Queensland no licence is required, though it seems that persons under seventeen should not use one without a permit. In Tasmania, airguns are completely unregulated, even as to the minimum age of possession.

6. OTHER USERS' LICENCES

The archetypal user is, of course, the shooter; it is he whose position has been considered thus far. However, there are other needs which the law may need to cover. Some jurisdictions frame their normal shooter's licence in terms wide enough to authorize possession for all kinds of use; others specify with more precision what is authorized by a licence. For example, shooting gallery licences have been mentioned; a majority of jurisdictions treat this as a distinct type of licence requiring distinct application dependent, implicitly or explicitly, on distinct criteria. Also, handgun licences held by bank managers have been referred to; most jurisdictions treat this within the mainstream of handgun licensing but one—Western Australia—deals with this issue through the concept of a corporate licence.

Firearms can be valuable investment items; indeed, this aspect of firearms ownership is significantly increasing. In the more strict licensing States—Western Australia, Victoria and South Australia—this kind of activity could be unduly inhibited if the licensing criteria applicable to shooters—'good cause', 'substantial reason', etc.—were unsympathetically applied. In Western Australia and Victoria, therefore, a special kind of licence—known as a 'firearms curio licence' or a 'collector's licence'—is available. The fundamental criterion is that the applicant must be a genuine collector, and the key conditions of the licence are that the firearms should not be used for shooting and that they should be stored

safely. In the Northern Territory provision is made for a collector's licence in relation to handguns.

A notable feature about the South Australian provision is that the 1977 Act made no special allowance for the needs of collectors. However, such was the concern generated by this omission that the government was persuaded to create such a category of licence in the regulations.⁴⁴ There are evidently enough collectors in that State to constitute quite a formidable lobby. However, a further redraft of the regulations saw the disappearance of that category—possibly because of a doubt whether such a regulation would be *intra vires* the Firearms Act. It is evidently hoped that the phenomenon of collecting can be satisfactorily encompassed within general licensing provisions. This is so in these other jurisdictions where the law is generally less restrictive. Nevertheless, it may well be preferable to have a separate licensing system for this quite discrete kind of activity.

7. LICENCES FOR DEALING, MANUFACTURING, ETC.

Each jurisdiction, to the extent that it requires the licensing of firearms, places dealers in a key position. It is they upon whom is placed the duty of keeping records of sales and purchases, and of doing so in a particular manner; it is they who must submit returns to the licensing authorities or permit their records to be inspected. Of course, in most jurisdictions private sellers have comparable duties in relation to the disposition of their firearms. But the dealer's position is far more significant, both because of the quantity of transactions in which he may be involved and because his incentive to comply with statutory requirements is so much greater. For, in all jurisdictions, a possible sanction for breach of one of the conditions of a dealer's licence is revocation of that licence—with consequential loss of livelihood. As with other licence revocations, such a step would be subject to appeal, in the ways and to the extent previously described. In practice, it would be highly exceptional for a dealer's licence to be revoked before he had been proceeded against and convicted for the alleged breach of the act. Nevertheless, the incentive to comply with statutory requirements is very strong.

The general policy is that a dealer must be a person of reasonably mature years; eighteen is the lowest age permitted in any jurisdic-

tion. The general pattern also is for dealers' licences to be personal or, where they may be corporate, for nominated persons to be charged specifically with the statutory responsibilities attaching to the licence. As well as record-keeping duties, these normally include the duty of conducting the business in a reasonably secure way.

Most jurisdictions include within the concept of 'dealing' the concepts also of manufacturing or repairing. A dealer's licence thus authorizes all or any within this range of activities. In Western Australia, however, separate licences are required for each of these activities. It is not clear whether, in that State, the growing body of home-reloaders each require a manufacturer's licence. Such a question only arises, of course, in a context where ammunition is treated on virtually the same basis, for licensing purposes, as firearms themselves. In that respect, the Western Australian approach goes much further than that of other jurisdictions.

8. FEES

Although shooters as a body might not agree, fees levied for the various licences are not on the whole unreasonable. Shooter's licences range from \$3 per annum to \$10; and the most expensive licence, that of a dealer, does not exceed \$100. By no stretch of the imagination can firearms licensing be regarded as a means of raising general revenue. The administrative costs of running a licensing and registration system, particularly as it becomes computer-based, are very considerable; it is doubtful whether revenue exceeds properly costed expenditure in any jurisdiction.⁴⁵ Nor does it seem realistic to suggest that the size of any licence fee in itself constitutes a disincentive to becoming a shooter.

Nevertheless, it is appropriate to consider whether, in the event that fees do raise excess revenue, such revenue should be earmarked for some purpose related to shooting. At present the only State to do this is Victoria, which seeks to link shooting with wildlife conservation and controlled hunting. Under the Firearms Act scheme, a shooter's licence in itself confers no right to hunt. Separate fees are levied for this privilege: \$2 for quail, \$3 for duck and \$10 for deer. It is then provided that all such fees, plus all fees for shooter's licences, are after the deduction of administrative costs not exceeding 15 per cent of the total, to be paid into a Wildlife Management

Fund. Quite large sums of money thus become available for this purpose; in the three-year period 1976-79 a total of \$1 669 175 was so paid. The licensing system itself, if fully costed, would doubtless be seen to have been running at a loss during the same period. The Wildlife Act 1975 provides that such funds should be applied for or toward the cost of

- (a) carrying out works for the restoration of wildlife habitat;
- (b) the protection and care of wildlife or wildlife habitat; and
- (c) the provision of services and facilities in any State Wildlife Reserve.

In a State where three shooters out of every four consider hunting or sport their principal motive for owning a firearm, this seems an eminently sensible use of funds.

Whilst most other States pursue, in one way or another to some extent or another, the policy of wildlife conservation, none links it directly to the system of licensing shooters. The policies are distinct—sometimes parallel, but never overlapping. *Prima facie*, there seems much to be said for the Victorian scheme.

The Victorian legislation is noteworthy in at least one other respect; fees for junior permits must be paid into a Firearms Training Fund. That fund is then distributable amongst clubs which train young persons in the use and handling of firearms. Unfortunately, this admirable concept is implemented in a token manner; the fee for such permits is a mere \$1 per annum, and consequently only \$21 895 has been paid into the fund in the three-year period 1976-79. Nevertheless, it is a valuable approach to a problem which, as will be seen in chapters 7 and 8, is a very real one.

9. POLICE POWERS

In all jurisdictions, to the extent that licensing is required or restrictions are placed upon use the police are, of course, the enforcement authorities. The most recent statutory model of the powers which it is considered they require is the South Australian one. In all respects except one—its authorization of search of premises without warrant—it is typical of the approach which prevails in the other jurisdictions.⁴⁶

Name and Address. A police officer may require any person who is carrying, or whom he reasonably suspects to be carrying, a

firearm to state his name, address and age. It is an offence to refuse to answer or to give false information.

Production of licence. A person who has a firearm in his possession may be required to produce his licence. However, if he cannot do so at once, he may do so at a police station of his choice within forty-eight hours.

Seizure of unlicensed firearms. If a policeman reasonably suspects that a firearm which should be registered is unregistered, or that it is being used or possessed in breach of the act, or that the possessor is not fit to possess it at that time, or that it is mechanically unsafe, he may seize it. The matter of its ultimate forfeiture or return will then be settled in proceedings before a court of summary jurisdiction.

Search for firearms which are liable to seizure. A policeman may stop, search and detain any person whom he reasonably suspects of being in possession of such a firearm; likewise he may stop and search any vehicle.

Search of premises. South Australian law provides that 'a member of the police force may break, enter and search any premises in which he suspects on reasonable grounds may be found a firearm liable to seizure under this section'.⁴⁷ As mentioned, this provision is not paralleled in any other jurisdiction. The predominant pattern is that a search warrant must be obtained, the classic criterion being that the magistrate or justice of the peace is himself reasonably satisfied as to the existence of the alleged grounds. In the Northern Territory, indeed, it is provided that only the senior judge of the Supreme Court may issue such a search warrant.

Obstruction of officers. The act contains the standard provision that it is an offence to hinder or resist a member of the police force acting in the exercise of his powers under the act.

The question arises whether these powers go further than is reasonably necessary and unduly impinge upon civil liberties. Certainly, opponents of the 1977 South Australian legislation vociferously argued that they do.⁴⁸ It should be pointed out that the South Australian provisions simply re-enact provisions in existence (admittedly in relation to a much narrower range of firearms requiring to be licensed) since 1929 without any clear evidence of abuse. Their rationale is the immediacy of the danger posed by firearms; but they are written in terms which would allow lawful abuse. Their actual exercise should be watched with care.

10. POSTSCRIPT: THE QUEENSLAND LEGISLATION OF 1979

Late in 1979 the Queensland government introduced new firearms legislation into parliament.⁴⁹ Although this had first been mooted some four years earlier, its introduction at that particular juncture came as a surprise. The new act—the Firearms and Offensive Weapons Act—by its terms replaced all existing firearms legislation.⁵⁰ However, its main purpose was unchanged—to provide for the licensing of private handgun owners in the community, a separate licence being required for each gun.⁵¹ Rifles and shotguns were, as before, to remain beyond legislative reach; owners would not need to be licensed nor would the firearms themselves have to be registered.

This latter issue provoked a lively debate, in which members on two of the three sides of the house showed a keen appreciation of the sorts of problem to be considered in the remainder of this book. However, the minister for police (the Hon. R. E. Camm) finally disposed of attempts to include long-guns within the licensing and registration procedures with an argument which, during many years of studying this problem, had not I must confess previously struck me:

Let the Opposition members remember that when the Communists take over a country the first thing they do is to say that all firearms in the country must be registered and that all people who have firearms must be licensed. That is Communist doctrine. It has happened in every country they have ever taken over.⁵²

Whilst the minister's own perception of the problem doubtless had a strong bearing upon the ultimate outcome, it should also be put on the record that a powerful gun lobby seemed to have been at work trying to influence parliamentarians in the four years since amendment of the gun law had first been mooted. This point is best documented in the speech of Mrs Kyburz.⁵³

Whilst the new law simply confirmed the previous philosophies, so that the preceding part of this chapter continues to reflect accurately trends apparent in the various Australian jurisdictions, some changes in detail should be recorded. In relation to concealable firearms, the most noteworthy are as follows.

First, the licensing function is no longer vested in the officer-in-

charge of the Brisbane C.I.D. but rather in 'an authorized officer' of police.⁵⁴ It was evidently contemplated that this function would in fact be delegated by the police commissioner to a particular officer;⁵⁵ this in fact is the head of the Technical Services Division. This change is principally to suit police internal administrative needs. So, too, is the change permitting the period of a licence to be two years instead of one, as before.⁵⁶ However, the extraordinary appellate procedure—to the minister alone—is retained, and the lack of procedural due process in such appeals, referred to previously,⁵⁷ is specifically confirmed.⁵⁸

The range of information which the police may require as part of the licensing process is extended to include such matters as fingerprints, photographs, etc.⁵⁹ Police powers in respect of enforcement of suspected breach of the act are also extended.⁶⁰

With regard to firearms generally, including concealable firearms, it should be noted that henceforth all dealers are to be licensed, and that this in turn subjects them to various duties and controls.⁶¹ Of course, such a provision has no effect upon dispositions of firearms by other means. Also, owners of all kinds of firearm are subjected to a duty of safekeeping.⁶² Public shooting galleries must henceforth meet prescribed safety standards; concealable weapons are prohibited in such places and all users must be at least fourteen years of age.⁶³

There are numerous other detailed changes in this amending and consolidating statute. The overall effect can fairly be summed up thus: that in Queensland handgun control legislation is reasonably adequate whilst long-guns remain subject to only token control.

11. SUMMARY

In relation to handgun licensing, there are striking similarities in the laws of all Australian jurisdictions. But with other guns the laws are disparate, the patterns one can perceive seldom being universal ones. When a law is attempting to control the use or possession of small moveable objects, such as firearms, it can readily be undermined by the laxity of laws in a contiguous State or one within the same land-mass. The question which will have to be considered in the light of the data to be examined in this book is whether Australian laws concerning firearms should be closely coordinated or even made uniform. Perhaps the time is now ripe for

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Australian legislatures to seek to profit from the experience of each other and from that of nations overseas.

2

HOW MANY GUNS?

Does Australia have a firearms 'problem'? If so, what is its exact nature, and is there anything constructive that can be done about it? A minimal prerequisite to answering such questions is a realistic idea of how many guns there are in private ownership in the community. A firearms 'problem' such as exists in the United States—where the lowest modern estimate of private firearms is ninety million,¹ and some commentators suggest that there may be as many as 200 million²—is far different from one such as in Britain—where the highest modern estimate is three million.³ Sheer quantity has its own dynamic, altering the nature of the problem. So where does Australia stand in this regard; what sort of firearms problem does it have?

OFFICIAL ESTIMATES

As the legal conspectus has shown, most jurisdictions are simply not geared to be able to estimate their total gun inventory. All should be able to offer an accurate estimate of handguns, of course; but the laws relating to long-guns are such that police authorities cannot know how many are held within the community at any given time. Western Australia is an exception to this generalization, after half a century of comprehensive licensing and registration of firearms. South Australia will soon be an exception now that it too requires licensing and registration. The Northern Territory should also be able to offer some kind of estimate; but because its registration system has not been supported by a licensing system for long-guns, it is bound to be inaccurate. Inevitably, the true figure must be higher than the known figure.

To return for the moment to handgun ownership, one could reasonably anticipate that all jurisdictions keep a detailed count and could thus offer an accurate estimate. Yet, astonishingly, New South Wales could not even do this. Evidently, records are kept (or not kept) in such a way that the police have no idea how many handguns are in private ownership in that State. All they could do was to offer a general estimate that there were two million plus firearms of all types within the State, with no breakdown being available by weapon type. (As will be seen, it seems certain that even this overall guess is wildly inaccurate.) Other jurisdictions, in response to a questionnaire sent out by the author, gave the figures as shown in Table 2.1.

Table 2.1
PRIVATE HANDGUN OWNERSHIP IN
AUSTRALIA, 1979

Victoria	5 700
Queensland	12 000
South Australia	11 200
Western Australia	5 123
Tasmania	1 600
N.T.	2 164
A.C.T.	4 100

The known total, excluding New South Wales, is thus about 42 000. It is possible that a further 35 000 to 40 000 handguns are lawfully owned in New South Wales.

Such records as there are about long-gun ownership are haphazard—more so, even, than the legal provisions would seem to justify. Table 2.2 is also derived from police estimates given to the author.

The South Australian figures are estimates based on forty years of manual recording. Inevitably, they will prove to be inaccurate, by how much it may be possible to ascertain after the licensing drive preceding the proclamation of the 1977 Act and the amnesty which took place between 1 October 1979 and 31 December 1979.⁴ The Western Australian figures include 145 583 firearms falling into the categories either of 'rifle' or 'airgun'; apparently the mode of keeping records renders it virtually impossible to differentiate

Table 2.2
PRIVATE OWNERSHIP OF OTHER FIREARMS IN AUSTRALIA 1979

	Rifles	Shotguns	Airguns	Total
N.S.W.	?	?	?	2 000 000 +
Victoria	?	?	350 air pistols	?
Queensland	?	?	?	?
South Australia	211 200	86 000	26 000	323 200
Western Australia	?	16 672	?	162 255
Tasmania	?	?	?	?
N.T.	1175 (high-powered)	?	?	12 308
A.C.T.	19 500	20 500	4 100	44 100

between these quite dissimilar weapons. However, it will be seen later that the vast majority of these weapons are, in all probability, rifles. The Northern Territory figures include 11 133 firearms which are either .22 rifles, low-powered rifles or shotguns; once more, further differentiation could not be made.

If one is to attempt to define and analyse an important social phenomenon, one obviously cannot do so upon the basis of data so utterly defective as the foregoing. We cannot tell whether we are confronted with a monster or a mouse; so how can our response be an appropriate one?

SURVEY FIGURES

Accordingly, the author—with the financial support of the Australian Criminology Research Council—sought to carry out a national survey, the first aim of which was to ascertain the levels of private ownership of firearms in Australia. It was possible that this might turn out to be a sensitive area of inquiry, liable to evoke defensive or even hostile responses, so a pilot survey was undertaken as an initial step. Western Australia was selected as the State in which this would be conducted. This was because the number of lawfully owned firearms—i.e. registered and held by licensed owners—was known and the number of unlawfully owned ones was thought to be quite low. This latter view was based on several

factors: first, that there had been an unbroken period of more than forty years' strict licensing during which no significant community dissent seemed to have developed; second, firearms coming to the notice of the police in a random manner (i.e. following accidents or suicides) were predominantly lawfully owned;⁵ and, third, the pattern of firearms' surrenders during periodic amnesties seemed also to indicate a low level of unlawful ownership.⁶ It was anticipated, therefore, that at the very least a survey in Western Australia would turn up lawfully held guns. If this in fact occurred, it was considered that this would indicate a realistic possibility that a national survey would succeed in revealing ownership of lawfully held firearms in States with less stringent licensing requirements than Western Australia. Lawful owners, under whatever legal system, would seem to possess comparable motivation to respond honestly or not to do so.

The methodology of the pilot survey was as follows. Two random samples of households were drawn, one for Perth and the other for the remainder of Western Australia, including the remote rural areas. In Perth questionnaires were distributed to each household by post; there were also additional questionnaires for individual gun-owners other than the head of the household. A few days later, at a time nominated on the questionnaire itself, collectors called to pick up the questionnaires and to ensure, if possible, that they were completed. In the remainder of the State a pure interview approach was followed. In either case there was provision for three calls to be made, if necessary, before a household was treated as not having been able to be contacted.⁷ Table 2.3 gives the response rates.

Table 2.3
RESPONSE RATES IN WESTERN AUSTRALIA
GUN SURVEY, 1973-74

	House- holds in sample	House- holds contacted	Completed question- naires	Refusals to answer
Perth	1000	831	728	103
Remainder of the State	1096	792	760	32

How Many Guns?

It can thus be seen that the response rate, expressed as a percentage of households contacted, was higher in the rural areas (95.9 per cent) than in the metropolitan area (87.6 per cent). This is probably a reflection of the preferable contact mechanism adopted in those areas. Interviewers gained the impression that those who refused to answer were motivated more by a general reluctance to answer *any* questions of a personal nature than by a particular resistance to questions about firearms; and of course prior warning by post gave more time for such an attitude to gell. Alternatively, it is of course possible that the group refusing to answer contained a disproportionate number of persons who owned firearms illegally.

At the time of the survey, there were 136 236 firearms in the private ownership of 77 521 licensees in Western Australia. The survey picked up approximately 130 000, as can be seen from Tables 2.4 and 2.5.

Table 2.4
WESTERN AUSTRALIAN GUN SURVEY, 1973-74

	Number of respondents	Number and % of households with guns	Number of guns per gun-owning household
Perth	728	104 (14.3%)	1.43
Remainder of the State	760	325 (42.9%)	2.20

From this the total number of firearms caught by the survey could be estimated as in Table 2.5.

As a matter of interest, if those who had refused to answer owned firearms at the same rate as those who responded, the total gun inventory would have been increased by approximately 11 000, thus making a total of 140 000. Regardless of this possibility, the results were considered satisfactory enough to justify carrying out a national survey.

Subsequently, the author was able to prevail upon the Australian Bureau of Statistics, which was gearing up to conduct a General Social Survey throughout Australia during the period March-May 1975, to include in that survey the same series of questions as had been asked in the pilot survey. The G.S.S. was to be conducted

Table 2.5

NUMBER OF GUNS IN WESTERN AUSTRALIA
1973-74 SURVEY

Perth	
Number of households	240 000
Number of gun-owning households (14.3% × 240 000)	34 320
Number of guns in such households (34 320 × 1.43)	49 078
Non-metropolitan	
Number of households	85 000
Number of gun-owning households (42.9% × 85 000)	36 465
Number of guns in such households (36 465 × 2.20)	80 223
Total number of guns (49 078 + 80 223)	129 031

across a sample of 10 500 dwellings in the six States and the Australian Capital Territory; the Northern Territory, whose principal population area, Darwin, was still suffering from the devastating effects of Cyclone Tracy, was to be omitted. In the event, the 10 500 households originally selected provided 9200 effective households of which 8414 (91.5%) provided data for the survey. These households contained 18 694 persons aged fifteen and over, each of whom answered the questionnaire.

The bureau published its first results in July 1977. This consisted mainly of simple counts of responses. Reductions in staff and problems with putting the data satisfactorily on computer tapes led to further delays. Eventually, the bureau produced, in October 1979, a revised and expanded version of its first report.⁸

The threshold aim of the G.S.S. was to produce, by State, an accurate estimate of the numbers and types of firearms in private ownership. The value of more sophisticated data—as to the characteristics, motives, etc. of gun-owners—would obviously be much diminished if the touchstone question—‘Do you own a firearm?’—did not produce a credible response. The Western Australian

survey had given grounds for optimism in this respect; the hope was that the bureau, operating with much greater resources and fortified by its statutory status, would be able to do at least as well as this.

However, the initial figures indicated that there had been substantial under-reporting. The flavour was captured by the Western Australian data, which seemed to indicate that there was a gun inventory of only 91 700 in the possession of only 52 400 private owners. The Australia-wide estimate of 1 373 700 firearms in the hands of 847 900 owners likewise seemed far too modest.

The key to the apparent under-reporting lay, however, in the A.B.S. sample, or rather in the omissions from that sample. For not only was the Northern Territory omitted altogether, as previously mentioned, but also all areas in all States where there were no population centres of 500 people or more. The A.B.S. estimated that 86 per cent of the Australian population was potentially within the survey; this meant that, apart from the Northern Territory, some 13 per cent of the population was missing from the sample, the exact figure varying slightly by State.

The point of all this is that the missing population comprised a segment of society within which there is a higher-than-average proportion of gun-owners who, in turn, tend to own a higher-than-average number of firearms per capita. This can be inferred from data which came to light in the first Western Australian survey, conducted by the author.

Table 2.6

OWNERSHIP OF FIREARMS IN WESTERN AUSTRALIA
1973/74 SURVEY

Area	Number of households surveyed	Gun-owning households	Total firearms in such households	Firearms per gun-owning household
1. Perth	728	104 (14.3%)	149	1.43
2. Goldfields	90	18 (20.0%)	30	1.67
3. > 10 000	154	42 (27.3%)	73	1.73
4. 5 000-10 000	278	101 (36.3%)	199	1.97
5. < 5 000	238	164 (68.9%)	410	2.50

In fact, in Western Australia 13.2 per cent of households (41 100) were excluded from the A.B.S. sample. All such households fell within 'Area 5' in Table 2.6, though a small proportion of Area 5 households were in fact within the sample. Yet households in that area had significantly more gun-owners with a significantly greater ownership rate. If this were true for Area 5 households in the other States also, the true figures were bound to be much greater than the G.S.S. figures.

The questions accordingly arise: was there under-reporting in the G.S.S. by those respondents actually reached by the sample? If not, can one estimate what the true figures would have been had the G.S.S. been conducted over a complete sample? In any case, how far are calculations made for Western Australia in relation to relatively ascertainable data able to be projected on to the other States of Australia?

As to the first question, the view of the bureau, and also my own, is that there was no substantial under-reporting by those actually surveyed. The reasoning behind this conclusion is of such arithmetical complexity that, out of compassion for the reader, it must be relegated to the footnotes.⁹

As to the true figure for Western Australia which the incomplete G.S.S. sample suggests, it is approximately 150 000 guns owned by about 78 000 persons.¹⁰ The official figure at the beginning of the year preceding the survey was 136 236 guns owned by 77 521 licensees. My own estimate was that there were between 10 and 15 per cent more firearms in Western Australia than were licensed by law.¹¹ On that basis, a true A.B.S. figure of 150 000 would be highly satisfactory, seeming to pick up even the unlawfully held part of the gun inventory.

The third question is the crucial one: can calculations based on the Western Australia formula sensibly be made in relation to the other States? Can one reasonably, if somewhat crudely, argue that the G.S.S. estimate of owners and guns should be increased by about 47 and 60 per cent respectively, as for Western Australia? If so, total Australian estimates (excluding the Northern Territory) would be:

1 250 000 owners, of
2 200 000 guns, in
1 150 000 households.¹²

There are three ways in which the plausibility of such a projection could be tested. The first concerns handgun ownership figures; the second involves ascertaining curves of ownership rate by demographic areas; the third is to conduct further surveys in the areas omitted in the G.S.S.

Handgun ownership. One could take, by State, known figures of lawful handgun ownership (conceding that unlawful ownership is certain not to be reflected in survey responses) and see if there is any kind of correlation between those figures and the projections made from the actual G.S.S. figures. An initial difficulty is that, as we have seen, the most populous Australian State, New South Wales, does not know the extent of handgun ownership within its boundaries. A second problem is that one is forced to assume that rural handgun ownership is, proportionately, similar to handgun ownership elsewhere. Third, handgun ownership being quite low, the margin of statistical error is greater.

Nevertheless, for what it is worth projections based upon actual G.S.S. figures would be as in Table 2.7.

Table 2.7
ACTUAL AND PROJECTED HANDGUN OWNERSHIP BY STATE: G.S.S. 1975

State	Actual G.S.S. numbers	Projected G.S.S. numbers	Official figures
N.S.W. (inc. A.C.T.)*	25 400	40 640	?
Victoria	9 550	15 280	5 700
Queensland	5 400	8 640	12 000
South Australia	3 600	5 760	11 200
Western Australia	3 260	5 220	5 123
Tasmania	680	1 090	1 600
TOTAL	47 890	76 630	

* All G.S.S. data to be cited hereafter treat the A.C.T. as being part of N.S.W. for survey purposes.

Obviously, the disparities here are too great for comfort, with the G.S.S. figures too high in one State and too low in others. Possibly there is some tiny encouragement in the fact that the total of the official figures for the States other than New South Wales (35 623)

is very close to the total of the projected G.S.S. figures for those States (35 990); but this is to clutch somewhat at straws. The pattern of the data is too inexact to provide support for the suggested method of calculation.

Demographic curves of gun ownership. All States obviously have population areas equivalent to Areas 1, 3, 4 and 5 of the first Western Australian survey; Area 2 (the Goldfields) is too distinctive to be matched. If the G.S.S. areas could be categorized in a comparable way and the data presented on that basis, it would be possible to ascertain whether, for areas equivalent to Areas 1, 3 and 4 and that small part of Area 5 covered by the G.S.S., there were patterns comparable to those found in Western Australia. If so, it would be a good indication that the method of estimate based on the Western Australian approach is reasonable.

Unfortunately, the A.B.S. has not collected or taped its survey data in a manner which would enable this potentially illuminating exercise to be carried out; therefore the plausibility of the hypothesis cannot be tested in such a way.

Additional surveys. A third alternative would be to conduct Area 5 surveys in the other States. Such a method would be less than perfect, inasmuch as a survey done at one time is not strictly comparable with another such survey done at a different time, even if the methodology is otherwise identical. Moreover, comparison with G.S.S. data is difficult, because of the confusion of some Area 5 data into the overall G.S.S. results. Nevertheless, it is the best available method. In early 1978 the author accordingly did this, with funds once more made available by the Criminology Research Council. The cost and complexity of carrying out surveys were such, however, that only two States could be covered; New South Wales and South Australia were selected.¹³

An initial problem was that the A.B.S. would not make up-to-date samples available. Those which were eventually provided were drawn from the 1971 census collectors' districts. Since 1971 there has been a considerable redistribution of the rural population. Consequently, the proportion of non-contacts was much higher than one would normally expect; in other words, the effective sample was smaller than had been hoped and could possibly, therefore, have become skewed.

The methodology to be followed was the usual one. Thus, three attempts at contact were made before a household was discarded.

How Many Guns?

Once contact was made, it was sought to contact each person over fifteen in the household directly, though more often interviewers had to be content with putting the questionnaire to one responsible adult on behalf of all such persons in the household.

Table 2.8

HOUSEHOLDS AND RESPONDENTS
1978 GUN SURVEY

	Households in sample	Contacts made	Refusals	Eligible respon- dents	Average number of respondents per household
N.S.W.	455	324	10	787	2.50
S.A.	303	153	0	370	2.42

Ownership data were as follows:

Table 2.9

GUN OWNERSHIP IN RURAL AREAS OF N.S.W. AND S.A.
1978 SURVEY

	Number and % of gun-owning households	Number and % of individual owners	Number of guns	Guns per gun-owning household	Guns per owner
N.S.W.	180 (57.3%)	190 (24.1%)	405	2.38	2.26
S.A.	95 (62.1%)	106 (28.7%)	182	1.92	1.72

Comparison with G.S.S. figures for areas where one would expect lower gun-ownership rates confirm that the rural areas do indeed have much higher rates (see Table 2.10).

The trends indicated by the figures in Table 2.10—admittedly based on samples which may not satisfy purely mathematical tests of reliability—are, in commonsense terms, highly satisfactory. If reproduced throughout rural areas in the two States and then added in to the G.S.S. figures, they would cause the percentage of gun-owning households to be increased to 24.4 throughout New South

Table 2.10

GUN OWNERSHIP IN N.S.W. AND S.A.
G.S.S. 1975 AND SURVEYS 1978

	% of respondents (i.e. over 15) who owned guns	Average number of guns per owner	% of gun-owning households	Guns per gun-owning household
N.S.W.				
G.S.S.	9.22	1.85	19.9	—
1978	24.1	2.26	57.3	2.38
S.A.				
G.S.S.	9.92	1.49	22.3	—
1978	28.7	1.72	62.1	1.92

Wales and 27.1 throughout South Australia. Similarly, they would cause the average number of guns per owner to be raised to 1.9 in New South Wales and 1.6 in South Australia. On this basis one could estimate that there would be just over 800 000 guns in private ownership in New South Wales and 170 000 or so in South Australia.

It is likely that moderate under-reporting has occurred in all the surveys; common experience suggests a slight defensiveness about this subject, even amongst persons whose conduct is perfectly lawful. The originally suggested formula, to increase G.S.S. figures by 47 per cent for owners and 60 per cent for guns, would produce slightly higher figures for New South Wales and South Australia than those estimated in the previous paragraph. It is proposed, therefore, to follow it, and to put forward estimates of gun ownership throughout Australia on that basis (see Table 2.11).

However, one further refinement is necessary. It is probable, on the basis of evidence to be discussed below, that there was substantial under-reporting of airgun ownership—though exactly how great this was it is not possible to say. Such a pattern would not be at all surprising. For most people, a simple airgun is not a 'real' gun, a perception which is shared by the law in most jurisdictions.¹⁴ Even experienced interviewers could have had difficulty in eliciting information about such objects—as much toys as weapons.

Table 2.11

ESTIMATED GUN OWNERSHIP IN AUSTRALIA, 1975

	N.S.W.	Vict.	Qld.	S.A.	W.A.	Tas.	Total
Number of persons over 15 owning firearms	447 000	364 000	201 000	121 000	77 000	46 000	1 256 000
Number of firearms owned by such persons	898 000	523 000	348 000	197 000	147 000	84 000	2 197 000
Average number of firearms per owner	2.01	1.44	1.73	1.63	1.91	1.83	1.75
Number of guns per 1000 of total population	189	145	179	162	136	211	167
Number of guns per 1000 households	555	437	547	472	409	638	509
% of households in which there is at least one gun	25.4	27.4	28.9	26.5	19.5	31.7	26.3

The percentage of airguns in the G.S.S. reported gun inventory is known for each State.¹⁵ As will be seen, the estimated percentage of airguns in the estimated Australian gun inventory of Table 2.11 is smaller than that in the reported figures. If the estimated number of airguns, by State, is removed from the estimated gun inventory, another interesting figure becomes available—that of the estimated number of rifles, shotguns, handguns and other explosive firearms in private ownership in Australia.

Table 2.12

ESTIMATED GUN OWNERSHIP
(OTHER THAN AIRGUN OWNERSHIP)
AUSTRALIA 1975

New South Wales	830 000
Victoria	494 000
Queensland	326 000
South Australia	185 000
Western Australia	139 000
Tasmania	81 000
TOTAL	2 055 000

It is not possible, from the available data, to calculate the extent to which this different mode of estimating the gun inventory should produce a consequential effect on the number of individual owners. However, it seems likely that the reduction would not be pro rata—i.e. that many airguns would be owned by persons who also own 'real' guns, or, at any rate, are owned by persons living in households where such guns are also owned, by someone. One cannot recalculate the whole of Table 2.11 so as to relate it only to guns other than airguns, therefore. However, allowing for some overlap one could suggest that the 1975 Australian situation with regard to private ownership of guns other than airguns was approximately as follows:

1 220 000 persons over 15 owned
 2 055 000 firearms, an average of
 1.68 guns per owner, or
 156 per 1000 of the total population. This was
 478 guns per 1000 households, and approximately
 25.3% of households were gun-owning ones.

A recent Morgan poll suggested that 21.0 per cent (or about 1.0 million) of Australian households were gun owning, in this narrower sense. It is not considered that this undermines my own estimate of 25.3 per cent. The Morgan sample was very much smaller (2037) and the methodology less painstaking. Some degree of under-reporting is inevitable in this area; the surveys with which I have been associated have done everything possible to minimize this factor.

GUN IMPORT FIGURES

The factor which led one to reassess survey estimates of airgun ownership is gun import figures for the period 1974-79. Because Australia does not have a domestic firearms industry of any significance, such figures are a particularly interesting source of information as to the size and growth of the Australian gun inventory. The figures are shown in Table 2.13.

The airgun point can be disposed of quickly. As can be seen, 215 443 were imported during the five-year period 1974/79. The estimated total inventory after one year of that period—viz. in 1975 when the principal survey was carried out—was less than 150 000.

Table 2.13

AUSTRALIAN GUN IMPORTS, 1974-79

Year	Rifles	Shotguns	Handguns	Airguns	Total
1974/75	97 532	59 436	9 396	54 465	220 829
1975/76	112 347	69 240	9 772	45 590	236 949
1976/77	131 347	51 122	12 295	50 117	244 881
1977/78	62 893	39 241	6 720	39 170	148 024
1978/79	71 597	32 552	N.A.	26 091	130 240
TOTAL					
1974/79	475 716	251 591	38 173	215 443	980 923

Is the latter figure plausible in the light of the former one? The answer, even allowing for unsold stock and possible modifications to buying habits, must surely be that it is not. The inventory accumulated and retained prior to 1975 could hardly be less than that accumulated subsequently. The explanation, as indicated above, must lie in under-reporting.

On the other hand the import figures of other firearms are reconcilable with the survey findings. If in 1975 the total inventory was two million, it can be seen that the 1974/75 imports (166 364) amounted to 8.33 per cent, or one-twelfth, of that number. Another way of looking at it is to say that the 1975/79 imports (599 126) have added 29 per cent to the inventory. Allowing for unsold stock and inventory losses, this is once more quite plausible, indicating an annual increase of between, say, 4 and 6½ per cent. There is, in other words, nothing in the import figures to destroy the data which constitute the basis of one's evaluation of the gun-owning situation in Australia. Indeed, as will be seen in chapter 3, the import figures are remarkably consistent as to type of firearm with the survey data, thus providing encouraging support for the latter.

SUMMARY

The population of Australia is now approaching 14.5 million. In that context, the suggested figures of gun ownership cannot be regarded as alarming. We have a social phenomenon which is still small enough to be manageable. However, it is evident, albeit to an

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imprecise degree, that the gun inventory is increasing—certainly more quickly than the population itself is increasing. The issues to be identified in subsequent chapters must, therefore, be tackled before the size of the gun inventory grows to the point where it constitutes in itself, as in the United States, a virtually unmanageable factor.

POSTSCRIPT

South Australian gun licensing and registration figures became available to the author in September 1980. It will be recalled that the proclamation on 1 January 1980 of the 1977 Firearms Act had been preceded and followed by an intensive drive to induce existing and new owners to comply with its provisions. The figures are therefore likely to be as accurate and comprehensive as is feasible; any substantial disparity with my own estimates would be disturbing in relation not only to South Australia itself but also to the remainder of Australia. The figures were:

106 137 individual owners
216 862 firearms (other than airguns)¹⁶

My own estimates had been:

119 000 owners approximately¹⁷
185 000 firearms (other than airguns)

These figures are considered highly satisfactory. Although my own estimate of the number of owners is approximately 11.2 per cent higher than the true figure, there is reason to suppose that the mere fact of a licensing drive tends to reduce slightly those who decide to continue as gun-owners; as against that, however, is the fact that my estimates for 1975 should be expected, because of population growth, to be lower than the 1980 figures. As to firearms, the natural accretion to the gun inventory since 1975 should be at least of the order of 10 per cent; my 1975 estimate of 185 000 is accordingly equivalent to a 1980 estimate of 204 000. This figure is 94.1 per cent of the official figure, which is within a perfectly acceptable range.

The precise shape of the phenomenon with which this book is concerned will inevitably be somewhat different from that adumbrated from the survey estimate. However, the South Australian data serve to confirm that it is closely related.

3

WHAT KINDS OF GUNS?

As well as needing to know the approximate size of a society's gun inventory, one needs also to know how it is split up. A firearms 'problem' concerning, say, airguns is utterly different from one relating to handguns. What, therefore, is the situation in Australia?

The principal source of information is the G.S.S. of 1975. However, inasmuch as the rural distribution of types of gun may differ somewhat from that in other areas, the G.S.S. patterns may not tell the whole story. The other surveys seem to indicate one relatively clear trend, that shotgun ownership is likely to be higher in rural than in non-rural areas. Such a trend accords with commonsense observation of the purposes and uses of firearms, thus fortifying slightly one's confidence in the responses to the various surveys and the patterns they seem to suggest.

First, then let us consider the G.S.S. data.

Table 3.1
DISTRIBUTION OF FIREARMS BY TYPE: G.S.S. 1975 (PERCENTAGES)

	Rifles	Shotguns*	Airguns	Handguns
Queensland	71.4	17.3	8.9	2.4
S. Australia	68.7	20.0	8.4	2.9
N.S.W.	63.2	20.5	10.5	6.2
W. Australia	59.0	29.4	7.7	3.9
Victoria	52.2	36.8	7.7	3.3
Tasmania	51.0	41.9	5.9	1.2
TOTAL	61.6	25.1	9.0	4.3

* including combination rifle/shotguns.

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Data relating to the rural areas of Western Australia, New South Wales and South Australia would, if reflected also in the other States, appear to support some re-allocation into the category of shotguns. This is particularly so when one recalls the much greater rate of firearms ownership generally in rural areas.

Table 3.2

DISTRIBUTION OF FIREARMS BY TYPE IN RURAL AREAS

	Rifles %	Shotguns %	Airguns %	Handguns %
S. Australia (1978)	54.4	38.0	2.9	4.7
N.S.W. (1978)	63.5	31.0	4.0	1.5
W. Australia (1973-4)	58.0	28.9	6.3	4.8

The overall drift of these figures encourages the belief that the proportion of shotguns in the national gun inventory is somewhat greater than the G.S.S. seems to suggest; it could perhaps be as high as 30 per cent. My overall estimate is that the Australia-wide distribution of firearms in private ownership could well be approximately as follows:

Rifles	60%
Shotguns	30%
Airguns	6.5%
Handguns	3.5%

If, in line with chapter 2, airguns are excluded altogether, the approximate distribution would be:

Rifles	64%
Shotguns	32%
Handguns	4%

As between these types of firearm, the 1974/79 import figures show a markedly similar pattern:

What Kinds of Guns?

Rifles	62.1%
Shotguns	32.9%
Handguns	5.0%

This tends to reinforce the survey data, and indicates a stable pattern of demand by Australian gun-owners. Further general support is provided by the 1979 Morgan poll, which appears to indicate a shotgun-ownership figure of 34 per cent.

To return now to the reported survey data, there are some interesting additional data which require comment. First, there appears to be a rather worrying discrepancy between official Western Australian figures and figures indicated by the various surveys. This particularly relates to the level of shotgun ownership.

Table 3.3

DISTRIBUTION OF FIREARMS BY TYPE IN WESTERN AUSTRALIA

	Rifles %	Airguns %	Shotguns %	Handguns %
Rural areas 1973/74 survey	60.0	6.2	28.9	4.8
Non-rural areas 1973/74 survey	66.2	9.6	21.4	2.8
Composite total 1973/74 survey	64.7	8.7	23.3	3.3
G.S.S., 1975	59.0	7.7	29.4	3.9
Police Dept figures 1974	86.4		10.9	2.7
Police Dept figures 1979	87.0		10.0	3.1

If Police Department figures could be regarded as cast-iron, doubt would be cast not just on the distribution indicated by the surveys but on every other aspect of the data, for it would suggest that some fundamental misreporting was being made by respondents. However, it is not unreasonable to regard the survey data as preferable. This is for three reasons: first, the broad consistency of the

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surveys with each other; second, the fact that the surveys turned up a total number of firearms very similar to the official figures; third, the fact that the official licensing system did not require any distinction to be made between the various types of long-gun, so that in the course of half a century of manual record-keeping it is quite likely that firearms types have become somewhat confused.

South Australian data show the converse problem: police estimates of shotguns are rather higher than G.S.S. estimates. On this occasion, the police estimate was more likely to be reasonably accurate, because of the almost certain under-reporting of shotguns brought about by the skewed G.S.S. sample. Figures subsequently produced after the 1979/80 licensing drive confirmed this supposition.

Table 3.4

DISTRIBUTION OF FIREARMS BY TYPE IN SOUTH AUSTRALIA

	Rifles %	Shotguns %	Airguns %	Handguns %
G.S.S. 1975	68.7	20.0	8.4	2.9
Rural survey 1978	54.4	38.0	2.9	4.7
Police Dept estimates 1979	63.2	25.6	7.8	3.4
Police Dept estimates 1980	62.3	24.9	8.5	4.3

There are two other points of great interest. The first concerns the very high levels of shotgun ownership in Tasmania and Victoria, as opposed to the other States. The G.S.S. figures, set out in Table 3.1, indicate that 41.9 and 36.8 per cent respectively of all firearms owned in those States are shotguns; and the true figures are, of course, likely to be higher even than these. Are these figures plausible, or do they arguably point to some defect in the survey data?

The answer is that, far from indicating some defect, they tend to confirm its general reliability, given its sampling limitations. This view is derived from the internal consistency found when weapon-type is related to motives for ownership. For Tasmania and Vic-

What Kinds of Guns?

toria are the States where a much higher than average percentage of respondents gave 'Sport' as a motive for ownership. The more temperate climate of these two southernmost States produces good hunting conditions for duck, quail, etc.—the type of sport, in fact, for which a shotgun is the most suitable weapon.

Table 3.5

SPORT AS A MOTIVE FOR FIREARMS OWNERSHIP BY STATE: G.S.S. 1975

	Multiple answers %	Adjusted to 100% %
N.S.W.	66.5	60.2
Queensland	56.7	51.2
W. Australia	67.5	61.4
S. Australia	72.6	66.8
Victoria	77.1	73.2
Tasmania	86.9	83.7
TOTAL	69.4	64.0

The other matter of interest, and immense importance, is the level of handgun ownership. By any available measure—official figures or any of the four surveys—the percentage of handguns in Australia's private firearms inventory is extremely low. The actual number is probably in the region of 80 000 and the percentage about 3.5.

This low figure is extremely satisfactory—though that is not to say that one should not strive to reduce it even further. The reason why low levels of handgun ownership are highly desirable can be seen from the experience of the United States. As is well known, firearms violence in that country far exceeds that anywhere else in the western developed world, to the point where one can say that it is different in kind not merely in degree. In every aspect of such violence—murder, robbery, accident, suicide—the handgun is overwhelmingly the most common weapon, far beyond its numerical significance.

That is not to deny that the United States handgun inventory is not huge. In 1968 it constituted an estimated 27 per cent, or twenty-

four million, of a total gun inventory of ninety million.¹ Now, it could constitute as much as 30 per cent of a gun inventory as great as 200 million, i.e. sixty million.² Whilst this increase, proportionate and absolute, has been occurring, violent crime has increasingly come to involve the use of firearms and firearms crime has increasingly come to mean handgun crime. For example, in Detroit, 70 per cent of armed robberies are now committed with firearms and the great majority of these involve handguns.³ The handgun is the preferred weapon of the professional criminal; it is also the convenient one for the casual criminal. The available evidence does not suggest that, were handguns unavailable, there would be a total switch to other kinds of firearm. In other words, the very size of the handgun inventory may in itself be a distinct criminogenic factor. In this context, it becomes an important end in itself to keep the handgun inventory as small as is feasible.

By a mixture of good fortune and sensible planning, Australia has managed to implement such a policy; about this the data are unequivocal. From this position there must be no retreat. Whilst it is maintained, Australia's firearms problems should remain manageable.

4

CHARACTERISTICS OF GUN-OWNERS

As one might expect, the United States with its massive firearms problem has led the way in firearms research. Yet even the most lavishly financed projects have been confined to seeking quantitative information: how many people own how many guns of what type? Only the crudest social data have been sought: for example, regional differences. A survey commissioned by the National Commission on the Causes and Prevention of Violence did not even explore the most obvious point of possible differentiation, rates of ownership by race.¹

In 1972, when the 1973/74 Western Australian survey was being prepared, a search of the literature revealed that no previous reported survey anywhere in the world had sought to elicit socio-economic characteristics of owners, their motives for owning guns, their credentials as gun-owners, or any such matter as this. In 1979—as data from the 1975 G.S.S. is at last becoming available—this, with one not entirely satisfactory exception,² remains true. The data to be discussed in this and the three succeeding chapters are of a unique and pioneering kind. Doubtless, with the benefit of hindsight, one could have done it all better; the reader will wish that some other questions had been asked and some others asked in different ways. But whatever the deficiencies of the various surveys, the data they have produced constitute a unique source of information about the gun-owners of Australia.

1. RATES OF OWNERSHIP, BY STATE

The rates indicated directly by the G.S.S. are, of course, too low, because of the incompleteness of the sample. However, the evi-

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dence discussed and the arguments made in chapter 2 suggest that the inclusion of the purely rural, or Area 5, segment of the population would have had a broadly similar effect in each State. Their relative ownership rates, therefore, are likely to be about the same with the inclusion of the rural population, though the rates themselves would all be greater.

If legal arrangements truly do affect social behaviour—either directly through sanctions or indirectly by reflecting roughly what that society regards as an appropriate attitude to the social phenomenon in question—then, bearing in mind that the overwhelming preponderance of firearms in all States is long-guns, one might expect a scale of ownership rate, from highest to lowest, to be:

1. Tasmania
2. Queensland
3. New South Wales
4. South Australia³
5. Victoria
6. Western Australia.

Against this rank order of past or present permissiveness there can be set the various available measures of gun ownership.

Table 4.1
GUN OWNERSHIP RATES IN AUSTRALIA

	Gun owner- ship rate, G.S.S.: % of gun- owners in population over 15	Projected rate: number of guns per 1000 population	Projected rate: number of guns per 1000 households	Projected rate: % of gun-owning households
1. Tasmania	13.6 (1)	211 (1)	638 (1)	31.7 (1)
2. Queensland	12.0 (2)	179 (3)	547 (3)	28.9 (2)
3. N.S.W.	9.7 (5)	189 (2)	555 (2)	25.4 (5)
4. S. Australia	10.8 (3)	162 (4)	472 (4)	26.5 (4)
5. Victoria	10.3 (4)	145 (5)	437 (5)	27.4 (3)
6. W. Australia	7.8 (6)	136 (6)	409 (6)	19.5 (6)

Characteristics of Gun-Owners

Possibly the Tasmanian figures are higher than they otherwise would be because that State's population distribution is less urban; there are more Area 3 and Area 4 conurbations in Tasmania, relatively speaking, than in other States. As for New South Wales, its rates may be slightly depressed because of the inclusion within it, for survey purposes, of the A.C.T.

In any event, the picture shown in Table 4.1 is most striking; there does appear to be some marked association between legal permissiveness and actual human behaviour. That is not to assert that the law is the sole determinant of conduct in this, or any other, area. But it does at least indicate that, so far as firearms control in Australia is concerned, the law is far from irrelevant. If desirable changes in patterns of ownership can be identified, changes in the law may well be effective to bring them about.

2. RATES OF OWNERSHIP, BY SEX

A commonsense expectation is that gun ownership is predominantly a male phenomenon. Sport, it will be recalled, is a prominent motive for ownership; so also, it will be seen, are use for one's job (for example, as a farmer) and protection of one kind or another. In each of these cases, one would expect males mostly to be involved in such roles. The G.S.S. data confirm one's expectations; males are nearly eighteen times more likely than females to own firearms—19.6 per cent of the male population over fifteen are owners as opposed to 1.1 per cent of females.

As always, one must note the shortcomings of the G.S.S. and take account of the possibility that a comprehensive survey would have shown modified patterns. In fact, the 1978 rural surveys suggested that the female rate of gun ownership was noticeably higher and that the disparity with the male rate was markedly less:

Table 4.2
RURAL GUN OWNERSHIP RATES, BY SEX

	Male %	Female %	Male:Female
N.S.W.	45.5	5.2	8.8:1
S.A.	56.3	4.4	12.8:1

Once more, this accords with commonsense expectations; the differentiation between male and female roles and interests cannot remain so sharp in rural conditions of life. Even so, firearms ownership and use remains overwhelmingly a male phenomenon.⁴

3. OWNERSHIP BY AGE

If firearms ownership is a male phenomenon, it is also a *young man's* phenomenon. More than a fifth of owners are between fifteen and twenty-four, more than a third between fifteen and twenty-nine, and a half below the age of thirty-five.⁵

Table 4.3
FIREARMS OWNERS, BY AGE-GROUP AND STATE
G.S.S. 1975

Age	N.S.W. %	Vict. %	Qld %	S.A. %	W.A. %	Tas. %	Total %
15-19	9.8	10.3	7.7	8.5	4.6	8.2	9.1
20-24	11.1	13.9	10.3	14.8	11.6	8.0	12.1
25-29	14.3	11.4	16.3	11.2	12.9	14.1	13.4
30-34	13.2	12.6	15.6	13.3	13.4	11.9	13.4
35-39	11.0	8.2	8.9	11.0	11.9	12.5	10.0
40-44	9.2	10.5	10.7	7.4	10.2	7.8	9.6
45-49	9.4	9.1	10.0	8.7	6.6	7.1	9.1
50-54	8.6	8.9	3.8	10.9	9.1	7.2	8.1
55-59	3.9	3.9	4.9	4.0	2.5	6.0	4.1
60 +	9.6	11.1	11.9	10.1	17.3	17.1	11.2

Current owners were also asked to indicate the age at which they first acquired a firearm. Responses to this question seemed to suggest that the precise letter of the law as to minimum lawful age of acquisition may not be very strictly observed (see Table 4.4); though to say this is not to contradict the point made earlier that the sheer quantity of firearms in a community seems to be susceptible to the influence of the law.

The point about possible unlawful acquisition should not be overstressed. There are, as was seen in chapter 1, all sorts of ways in which persons below the normally stipulated age may lawfully

Table 4.4
AGE AT WHICH CURRENT OWNERS ACQUIRED THEIR FIRST FIREARM
BY STATE: G.S.S. 1975

Age	N.S.W. %	Vict. %	Qld %	S.A. %	W.A. %	Tas. %	Total %
15 or less	31.2	28.9	32.6	25.3	16.5	30.4	29.2
16-17	22.6	14.1	21.8	24.0	25.0	30.6	20.6
18-19	16.4	21.3	15.9	13.3	16.5	11.4	17.3
20-25	17.3	21.0	18.2	19.7	22.8	15.1	19.0
26-29	2.9	5.9	4.3	7.7	5.4	3.6	4.6
30-39	5.1	5.9	5.0	7.2	9.0	7.1	5.8
40 +	4.6	2.9	2.4	3.0	4.9	1.8	3.5

Table 4.5
CURRENT AGES OF FIREARMS OWNERS BY AGE OF FIRST ACQUISITION:
G.S.S., 1975

Age of first acquisition	Current age				Total* %
	30-39 %	40-49 %	50-59 %	60 + %	
Under 13	12.2	12.1	11.1	14.6	12.4
13-14	8.0	12.3	10.4	11.8	10.3
15-16	14.2	16.0	19.5	19.0	16.5
17-18	20.1	17.4	20.9	15.5	18.7
19-20	12.8	8.9	7.3	6.9	9.7
TOTAL†	67.3	66.7	69.2	67.8	67.6

* i.e. total percentage of current owners over 30 who acquired their first firearm at the indicated age.

† i.e. total percentage of owners in the indicated age-group who acquired their first firearm at 20 or less.

use firearms—junior permits, dispensations for members of shooters' clubs, use on farms, use under adult supervision, etc. Nevertheless, in a context where in the last forty years or so (a period long enough to pick up the vast majority of respondents) only South Australia has permitted ownership at fifteen, the top

line of Table 4.4 is slightly surprising. It would have been more informative if it were known what sort of firearm was first acquired by respondents (in the case of Tasmania airguns can, of course, be lawfully acquired at any age). Nevertheless, one can perhaps say that the data suggest that the minimum age prescriptions may be out of tune with actual conduct. If so, this would be even more marked in relation to Victoria and New South Wales, where the usual minimum age of lawful acquisition is of course eighteen.

Other data, not able to be broken down by State, confirm the earlier inference that the phenomenon of youthful acquisition is a long-standing one in Australia (Table 4.5).

In the context of the foregoing data, the question arises: should the law be amended so as to reflect social reality or, alternatively, should a determined attempt be made to enforce the proscriptions as to age? My own view is that positive benefits could ensue if one harnessed this social phenomenon rather than maintained laws of merely symbolic effect. This point will be developed in the final chapter.

4. SOCIO-ECONOMIC AND EDUCATIONAL STATUS OF GUN-OWNERS

In the United States, Wright and Marston concluded that 'weapons ownership is primarily a middle-class, not a working-class phenomenon'.⁶ As far as the income component of class is concerned, this is also the case in Australia, though not so strikingly when males only are concerned:

Table 4.6
PERCENTAGE OF GUN-OWNERS, BY INCOME GROUPS
G.S.S. 1975

Gross weekly income \$	% of all persons who are owners	% of males who are owners
40-80	8.9	21.7
80-120	11.8	21.6
120-160	16.0	20.1
160-200	21.7	25.4
200 +	21.8	23.9

However, the pattern is less well-defined when occupation is considered (Table 4.7). Once more, however, these figures are to some extent skewed because they relate to *all persons* engaged in the particular occupation. Because of the immensely greater ownership rate of males, those occupations in which women are substantially employed will be artificially depressed.

Table 4.7
PERCENTAGE OF GUN-OWNERS, BY OCCUPATION: G.S.S. 1975

	N.S.W. %	Vict. %	Qld %	S.A. %	W.A. %	Tas. %	Total %
Primary industry	33.2	27.5	30.0	27.2	36.0	26.5	30.6
Armed services	24.4	22.5	25.1	18.4	11.2	—	21.7
Executive, managerial	20.5	19.2	25.9	17.7	19.1	27.0	20.6
Transport, communications	20.4	16.1	16.8	17.0	17.0	33.0	18.5
Miners, tradesmen	18.6	17.4	26.1	19.3	14.0	26.9	18.5
Sales	6.8	10.8	11.6	11.5	11.3	13.7	9.6
Professional	9.0	8.9	10.0	10.5	11.4	10.4	9.5
Service industries, sport, recreation	10.1	7.1	9.6	11.3	2.5	4.5	8.4
Clerical	7.1	6.4	6.1	7.2	3.6	8.9	6.6

Unfortunately, male ownership figures by occupation are only available nationally, not by State. Moreover, two groupings which one can reasonably expect to have differing ownership patterns are, for some curious reason, lumped together in those national data; these are 'professional' and 'executive/managerial'. Leaving these aside, therefore, male ownership by occupation is as in Table 4.8.⁷ It can be seen that with one exception—service industries—the rank order of male occupational participation in shooting remains much the same as that for all persons, though the percentages are generally higher and the disparity between groups rather less. If there is a trend it is, perhaps, that persons whose occupation is practical are more drawn to shooting than less practical persons. This observation is unsurprising. It received some general support from figures relating to the educational attainments of shooters (see Table 4.9).

Table 4.8

PERCENTAGES OF MALES WHO ARE GUN-OWNERS
BY OCCUPATION: G.S.S. 1975

	%
Primary industry	37.0
Service industries, sport, etc.	23.2
Miners, tradesmen, etc.	22.7
Armed services	22.2
Transport, communications, etc.	22.0
Sales, etc.	19.8
Clerical	18.3

Table 4.9

PERCENTAGES OF MALES WHO ARE GUN-OWNERS
BY EDUCATIONAL LEVEL: G.S.S. 1975

	%
Never attended school or left before 15	19.6
Left school 15 or over	19.2
Trade, technical or other qualifications	24.4
Tertiary qualifications	16.9

As with all G.S.S. data, it must not be forgotten that the sample was not complete; the previous four tables should be interpreted with that caveat. Thus, the percentage of primary industry workers owning firearms is certainly too low. The sorts of occupation caught by the G.S.S. would include nurserymen, market-gardeners and small farmers, persons whose need for firearms would obviously be less than that of graziers, pastoralists and workers on large farms. The Western Australian 1973/74 survey suggested that as many as 80 per cent of rural primary industry workers owned firearms. Similarly, inclusion of Area 5 respondents would probably have affected the pattern relating to educational attainments of gun-owners, so as to increase the disparity between the three groups who received less formal education and those with tertiary qualifications.

5. COUNTRY OF ORIGIN OF GUN-OWNERS

The Western Australian survey had indicated, to a significant degree, that native-born Australians were more likely than immigrants from the U.K. to own firearms.⁸ Possibly, the British brought their habit of low gun ownership with them. On the other hand, it did not seem that Italians—having a high rate of ownership at home—carried that habit to Australia with them. However, the number of Italians in the sample was too small for one to be confident of the latter conclusion.

The G.S.S. data seem to confirm the high gun-ownership rate of native-born Australians as against the low rate of migrants from the main English-speaking countries. They also seem to indicate that Italian migrants do in fact bring their gun-owning habits with them, for their ownership rate is as great as that of native-born Australians.

Table 4.10

PERCENTAGE OF MALES OWNING FIREARMS
BY COUNTRY OF BIRTH: G.S.S. 1975

	%
Australia	22.5
Main English-speaking countries	12.3
Italy	22.9
Other	15.0

6. MEMBERSHIP OF GUN CLUBS

It is my own, admittedly subjective, impression that members of gun clubs by and large take their shooting with the seriousness it deserves. Their concern to improve their own skill as shooters is matched by their desire to use firearms safely. When one considers the harm which is done by avoidable shooting accidents,⁹ the existence of a group of shooters which is particularly safety conscious is of great potential importance. Evidently the authorities share my impression that gun club members are likely to be disciplined shooters, posing no real danger to the public safety, for several States place members in a favoured position in seeking licences.¹⁰

Firearms and Violence in Australian Life

It is gratifying that G.S.S. data, to be discussed in detail in chapter 8, confirm one's impression as to the extra safety consciousness of gun-club members. But this fact takes on an ironic note when it emerges how low is the general level of gun-club membership throughout Australia.

Table 4.11

GUN-OWNERS WHO ARE MEMBERS OF
GUN CLUBS: G.S.S. 1975

	%
N.S.W.	8.1
Victoria	4.9
Queensland	5.0
South Australia	5.2
Western Australia	3.4
Tasmania	6.4
TOTAL	6.0%

The Western Australia figures seem too low, for the 1973/74 survey had indicated a State-wide figure of 7.0 per cent membership. The 1978 surveys confirm generally low figures for New South Wales and South Australia in rural areas: 7.4 and 7.6 per cent respectively.

There can be no doubt that gun clubs are not making as substantial an impact upon the shooting scene in Australia as one could hope. This is in marked contrast to New Zealand, where there are an estimated 70 000 club members out of a total shooting population of 400 000—i.e. 17.5 per cent.¹¹

One effect of low gun-club membership (and it also confirms the general trend of the figures set out in Table 4.11) is the low participation rate of clubs in training shooters. This will be referred to more fully in the context of accidents, but it is worth noting at this stage that in New Zealand 'nearly all those involved in the [fifty or so] accidents a year did not belong to any shooting association'.¹²

It is interesting, in comparing Table 4.12 with the previous one, to note that it is higher throughout. Gun clubs evidently do not hold their membership as well as they might. Moreover, in relation to Western Australia—which attaches special significance to gun-

Characteristics of Gun-Owners

Table 4.12

PERCENTAGE OF GUN-OWNERS TRAINED
IN GUN CLUBS: G.S.S. 1975

	%
N.S.W.	9.6
Victoria	7.9
Queensland	6.6
South Australia	7.6
Western Australia	12.0
Tasmania	9.4
TOTAL	8.6%

club membership in granting licences—there is a distinct suggestion that shooters may join a club to get a licence, then leave it.

7. OTHER MATTERS

Shooters appear to be much the same as non-shooters with regard to their marital status and their social stability (as indicated by residential habits). Overall, it seems clear that gun-owners are not, in fact, some freak segment of Australian society but part of its mainstream. There are some distinct patterns, but no gross ones. People from all segments of Australian society are shooters.

This is a very important point when desirable strategies of law-making are being considered; one is dealing with ordinary citizens, not with a peculiar or deviant segment of society. One should not therefore needlessly oppose their interest, placing obstacles in their way for the sake of doing so. Rather, one should seek to harness their energies and efforts, trying to modify their habits only where they seem to create problems.

5

MOTIVES FOR OWNING FIREARMS

This is an area where the firearms debate tends to become less than rational. Those versed in Freudian psychology—a mode of thought adept at reducing almost everything to practically nothing—have a wonderful time talking about virility symbols and sublimation and inferiority complexes.¹ On the other side, nonsense is perpetuated about democracy being safeguarded only whilst the citizenry is free to arm itself to the teeth.² But for the bulk of gun-owners, these kinds of hyperbole are irrelevant. The reasons which they articulate to themselves, whilst they may sometimes be misguided, are for the most part mundane and straightforward.

All the surveys sought information as to owners' motives. The Western Australia survey asked for only one motive, the predominant one. The G.S.S. permitted multiple answers, whilst not positively inviting them; in fact, about 8 per cent of respondents gave more than one motive. The 1978 New South Wales and South Australia surveys positively encouraged multiple answers; in each case there were approximately 20 per cent more answers than respondents. Possibly the latter methodology was preferable; be that as it may, the small size of the sample obviously diminished the value of the results.

It should be pointed out that all the surveys inadequately differentiated between the use of firearms for 'sport' and use in connection with the respondent's job or business. A primary producer would consider shooting foxes, rabbits, kangaroos etc. as destroying vermin to protect his livelihood, whereas a city-dweller might well consider the very same activity to be manly diversion. Some support for the view that respondents could have been confused

Motives for Owning Firearms

arose out of the 1978 surveys. Although the questionnaire posed the same question as before, collectors were instructed to probe more deeply into which, if either, of these two motives was the true one. In these circumstances, there was a distinct drift of responses from 'sport' to 'job or business'.³ Even allowing for the fact that the rural samples of the 1978 surveys would inevitably provide a higher percentage of job-shooters, it seems likely that the G.S.S. results exaggerate 'sport' somewhat at the expense of that other category.

Nevertheless, the G.S.S. data provide the most comprehensive picture available. In considering them, it should be borne in mind that all jurisdictions require a good cause for handgun licences, that two (Western Australia and Victoria) likewise require good cause for long-gun licences, and that all mainland States except Queensland require that licensees be 'fit and proper' persons, a notion to which declared motive for ownership may well be relevant. The results of the G.S.S. are set out in Table 5.1. Percentages in this table have been reduced to 100 for convenience, the range by State having been from 104 to 110 per cent. It should also be said that the data published in 1979 by the A.B.S. do not in all respects correlate with what follows. This is because several answers have been consolidated in the A.B.S. publication (i.e. minding, other reasons, and no specific reason) even though they may cover quite different conduct, and because other data have been omitted altogether (being considered by the bureau to be subject to too great a standard error). The main difference between A.B.S. published data and those in Table 5.1 relates to Queensland. In the initial set of figures, upon which this table is based, Queensland had only 13.3 per cent of respondents giving 'no reason' or 'other reason' by way of response; but in the re-computed data this has mysteriously risen to 27.5 per cent, with a fall in 'protection of business' partially accounting for this.

Several matters stand out in this table. First, even allowing for possible exaggeration, 'sport' is the predominant motive for owning a firearm. The fact that only 6 per cent of Australian shooters are members of gun clubs indicates that game-hunting, not target-shooting or skeet-shooting, is principally encompassed within this rubric. The Victorian and Tasmanian figures have been commented on previously;⁴ they tie in convincingly with the higher rate of shot-gun ownership in those States.

Table 5.1

MOTIVES OF FIREARMS OWNERS BY STATE: G.S.S. 1975

	N.S.W. %	Vict. %	Qld %	S.A. %	W.A. %	Tas. %	Total %
Souvenir, collection	6.8	5.3	7.1	4.7	4.7	5.0	6.0
Sport, hunting	60.2	73.2	51.2	66.8	61.4	83.7	64.0
Protection of self, household	8.9	5.6	11.7	8.1	5.8	0.6	7.9
Protection of business	11.5	8.3	13.0	13.3	13.2	4.6	10.9
No specific reason	4.2	3.4	7.8	3.0	3.6	1.7	4.3
Part of job or business	5.0	1.2	3.6	1.3	5.5	1.1	3.2
Other reason	3.4	3.0	5.5	2.7	5.8	3.4	3.7

The second matter concerns collecting firearms. It was mentioned earlier⁵ that pressure had been exerted, ultimately without success, on the South Australian authorities to create, in the regulations made under the 1977 Act, a distinct category of a 'Collector's Licence'. The G.S.S. figures confirm that the desire to collect firearms is a clear and distinct one in all States—a minority interest but a real and recognizable one.

The third notable feature concerns protection. People's fear of other people seems to be a growing phenomenon of our times. It may well be that the fear is misplaced, and that in any case the remedy of arming oneself is totally misconceived. These are distinct matters, however. The threshold question is to what extent Australians, for better or worse, are arming themselves as a means of protection.

From Table 5.1 it can be seen that 7.9 per cent of gun-owners make no bones about it: self-protection is indeed their principal motive for owning a firearm. In addition, 4.3 per cent of owners can offer no particular reason for having a gun. It is quite possible that a substantial proportion of that group feels, in some undefined way, that they are safer through owning a gun if they have not admitted to themselves that this is why they do so. Next, a further 10.9 per cent give protection of their business as a motive for ownership.

If one were to consolidate these three categories of response, one

can estimate the upper range of gun-owners for whom protection of some kind or another may be an important motivation.

Table 5.2

FIREARMS OWNERS FOR WHOM SOME ASPECT OF PROTECTION MAY BE AN IMPORTANT MOTIVE FOR OWNERSHIP

N.S.W.	%
Victoria	24.6
Queensland	17.3
S. Australia	32.5
W. Australia	24.4
Tasmania	22.6
TOTAL	23.1%

This is a remarkable table. It indicates that as many as two out of every nine Australian gun-owners may have a firearm out of fear of his fellow-citizens. As for Queensland, the data, if they can be relied on,⁶ suggest that the proportion could be as high as one owner in three—which would confirm one's impression from other observations that to live there is to live in a state of paranoia. The Tasmanian data are no less interesting; in a context of a low rate of serious crime and relatively small and close-knit communities, fear of one's neighbour seems relatively insignificant.

The firearm which is designed principally for protection is the handgun. Yet we know that the bulk of those owners concerned with their own protection cannot possibly own one; handguns constitute after all no more than 4 per cent of the total gun inventory. Police administrative practice, as has been seen, is unsympathetic to licensing handguns in any but the most exceptional circumstances.⁷ That being so, there must be a substantial trend for persons to take advantage of the relatively lax laws concerning long-gun ownership so as to acquire for protection firearms whose customary use is quite different. Have licensing authorities realized this, coming to accept it as normal and legitimate? Or are they unaware of it? Whatever the answer, one can reasonably aver that an important policy matter seems to have been settled by default, not only in those States where good cause for a licence need not be

shown but also in those (Western Australia and Victoria) where it is required.

United States experience has also been that self-protection, engendered by concern about escalating crime rates, is a substantial motive for private gun ownership. A recent Harris poll⁸ indicated that 35 per cent of gun-owners gave self-defence as one reason for having a firearm. The 1973 N.O.R.C., as analysed by Wright and Marston,⁹ more subtly elicited supportive information. Respondents were asked a series of questions about income, religion, education, presence of blacks in their neighbourhood, whether there was an area nearby in which they would be afraid to walk at night, whether they had recently been victimized, and what were their attitudes to welfare. Having examined the data, Wright and Marston reached the following conclusions:

Overall, the data present a mixed picture. First, most of the tendencies shown . . . are weak—much weaker than might have been expected, given the alarmist themes predominating in the 'urban malaise' literature. On the other hand, some of the results do appear consistent with that literature. The heaviest concentration of weaponry, for example, comes amongst those who feel that too much is spent on welfare, that the courts are not harsh enough on criminals and who have been punched or beaten or threatened with a gun at some point in their lives. Among the latter group, weapons ownership is especially pronounced; more than half the group owns at least one weapon, and nearly a third own a pistol.

The remaining four items, however, show an *opposite* pattern to that predicted by the 'fear and paranoia' hypothesis. Respondents who report some fear at venturing out at night are slightly *less* likely to own a gun than those reporting no fears. Likewise, those who have been burglarised or threatened by force in the last year are *less* likely to possess a weapon than those who have not. Finally, persons living in integrated urban and suburban neighbourhoods are *less* likely to own a gun than those whose neighbourhoods are all white.

Given the relative weakness of these relationships and the small number of cases in some of the more interesting cells, one cannot come to any firm conclusion. Nevertheless, the data suggest that the anticipation and expectation of crime and similar urban degradations is a more important determinant of weapons ownership than actual experiences with crime.¹⁰

The latter conclusion is an extremely interesting one which it would be fascinating to test in the Australian context. Certainly,

previous work offers hints of comparable trends; Vinson, for New South Wales, has produced data which suggest that fear of crime and a feeling that the courts are not hard enough on criminals are stronger amongst those who are less likely to be victimized.¹¹

It has been suggested that such reactions are not at all irrational. If one looks at the group which is victimized least, and thus is *prima facie* the least vulnerable to crime, it may well be that the reason they are victimized least is because they have taken the greatest safeguards, but for which they would in fact have been the most vulnerable group.¹² However, the model for this conclusion remains at this stage theoretical; the hypothesis must thus be regarded as still speculative. Indeed, it is questionable whether a statistical model conceived out of very high United States figures of violent crime can ever be appropriate to the Australian setting, where there is so much lower a level. One is, perhaps, on safer ground if one confines oneself to commonsense observations, not dependent on statistical tests, of the sort made by Reppetto following extensive field-work in the city of Boston, Massachusetts:

The relative rarity with which either residential robbery or burglary results in personal injury is not, however, an adequate measure of the personal and social consequences of these crimes. By far the most pervasive consequence—fear—is not readily susceptible to statistical summation, but its influence is obvious. The mini-fortresses—housing for the affluent—springing up around the central cities, the growth of neighbourhood patrol groups, the flight of the middle-class to the suburbs, the flourishing security business, all testify to the penetration of fear into the most private of places, the home.¹³

Australia is not, of course, as far down the road as the United States. But the figures of firearms ownership for purposes of protection suggest that we are indeed on the same road.

The question now arises: given that the fear is genuine, conceding for the moment that it is also realistic, is the acquisition of a firearm a rational response? Do guns in fact provide protection for their owners?

In attempting to answer this question, one can perhaps skate by details of the complex legalities which can arise within a plea of self-defence against threatened personal injury or death.¹⁴ However, it should be noted that the right to defend *property* by the use of potentially lethal force is very much circumscribed.¹⁵ Simply at a

practical level, then, regardless of legality or morality, is the possession of a firearm a sensible response to fear, one likely to be utilitarian? The available evidence suggests that it is not. However, the discussion needs to be broken down into types of crime and the circumstances in which they are committed.

Burglary. The essence of burglary is that it is surreptitious. The last thing a burglar wants to do is to complicate his task by confronting the occupier of the premises from which he seeks to steal property. His ideal modus operandi is to burgle from unoccupied premises or, at worst, from premises in which any occupants who happen to be there are sleeping or for some other reason unlikely to become aware of his presence. Reppetto's Boston work indicated that there was an unexpected encounter between intruder and victim in only about 1 per cent of burglaries.¹⁶ Recent English work came up with a figure which could be as high as 6 per cent;¹⁷ but even on this basis confrontations remain quite infrequent. No comparable figures are available for Australia, but it seems reasonable to suppose that the confrontation rate is in fact quite low.

That being so, the maximum theoretical number of opportunities to use a firearm to protect one's property or oneself against a burglar must also be low. In any case, a considerable proportion of such theoretical occasions would not be translated into reality: the burglar may flee, the gun may be in another room, there may be delay in loading it, etc. Those opportunities that do become a reality may well pose as much, or more, danger to the victim as to the offender; generally speaking, one can expect the latter to be better prepared for an escalating situation. The fact that there are very occasional incidents where an armed victim does manage to apprehend or injure or even kill a burglar does not belie this point; they remain very much the odd exception.

Moreover, to keep a firearm in a house for the purpose of self-protection creates other tangible hazards. For example, the gun may be involved in an accident. As will be seen, the accident rate in Australia is already disquieting enough. It may be said that a self-protection gun is no more likely to be involved in an accident than any other firearm, so that it is a false point to stress this possible drawback. However, there is a paradox here. A firearm kept constantly in a state to be useful as a means of defence (i.e. loaded or, at the very least, with ammunition in very close proximity) is also more likely to be involved in an accident.¹⁸

Another hazard is that the firearm itself may be stolen. Firearms are valuable items for which there is a ready market and, depending on his contacts, a burglar who happens upon one may well decide to add it to his haul. In the United States more than 100 000 firearms, it is estimated, are stolen from private owners annually.¹⁹ In England the equivalent figure is 2000.²⁰ There is clear evidence that some of these are used subsequently in crime.²¹ Once more, no Australian figures are available; but it is a fair inference that, insofar as the gun inventory is enlarged by the ownership of guns for protection, the number of firearms passing into illegitimate ownership is likewise proportionately increased.

Robbery. By United States standards, Australia barely has a robbery problem at all. Recent figures from the States and the Territories indicate how few robberies there are, in absolute terms. They show, moreover, a reasonably reassuring picture of the use of firearms as robbery weapons.

Table 5.3

ROBBERY IN AUSTRALIA, 1976-78, WITH FIGURES OF CASES
WHERE FIREARMS WERE USED

	1976/77	1977/78
N.S.W.*	1205 (301)	1581 (427)
Victoria*	432 (348)	473 (386)
Queensland	268 (not known)	308 (not known)
S. Australia	268 (22)	213 (36)
W. Australia	124 (24)	155 (43)
Tasmania	35 (5)	24 (0)
N.T.	3 (0)	20 (2)
A.C.T.	21 (4)	17 (7)
TOTAL	2356	2791

* For N.S.W. and Victoria the figures relate to the calendar years 1977 and 1978.

It can be seen from Table 5.3 that, excluding Queensland, there were 714 armed robberies involving the use of firearms in 1976/77 and 901 in 1977/78. This amounts to 34.2 and 36.3 per cent respectively. Obviously, these figures must be closely monitored in the

CONTINUED

1 OF 3

future, with particular attention to the situation in Victoria. It is certainly to be hoped that a trend does not develop whereby an increasing percentage of an ever-growing number of robberies is committed with the use of firearms. This is an issue which will be discussed thoroughly in chapter 11. The point for the present is that the Australian robbery rate is satisfactorily low, comparing very favourably with that in a typical medium-size United States city.²²

So the first point to be stressed is that the average Australian citizen has an extremely low probability of being victimized in, or present at, a robbery incident. If robbery were random, the chance of being victimized would be about 1 in 5000 per annum.²³ But of course robbery is not random; there are preferred targets, such as banks, taxi-drivers, garages, conveyances for the transportation of money, etc. The ordinary citizen going about his daily affairs is certainly not a preferred target. In New South Wales and Victoria in 1975 and 1976, only one robbery in four was of such a type;²⁴ of these only a quarter (i.e. 6 per cent overall) occurred on private premises.²⁵ Yet this is the only location where a private citizen might be expected to have his firearm, if he happens to own one, within reach. Obviously, this raises doubts about the appropriateness of owning a firearm for purposes of protection against robbery.

The preferred target, as indicated, consists of persons who as part of their employment or business are in charge of money or goods; such persons constitute more than 70 per cent of robbery victims.²⁶ It might be thought that these people, if no one else, should be armed to protect them against robbery. This is a complex question, which will be discussed fully in chapter 11. However, it is enough for the present to note that even persons trained in the use of firearms and, presumably, ready and able to use them as a means of protection are more likely to be relieved of their weapons by robbers than to utilize them in their own defence. Thus, in the two years reviewed in the previously mentioned report, twenty-four handguns were taken from victims in New South Wales and Victoria; twenty-two of these were taken from bank employees, armoured car guards and other security guards.²⁷ This is not really surprising for reasons which Lettkemann has identified:

Such protection [i.e. of the robber by his carrying a firearm] may be needed because of police or potential heroes amongst robbery victims. Robbers have only contempt for the hero-

type, whose action is considered irrational and extremely dangerous. Whenever the robber meets resistance from his victims and is forced to shoot, he is almost certainly going to 'win', given his experience and advantageous position.²⁸

Recognizing this, the Australian report on armed robbery goes as far as to recommend that bank employees and other persons in charge of money should not be armed.²⁹

It seems relatively clear, therefore, that the carrying of firearms for the supposed purpose of protection against robbery is self-deluding. This is so even if those who do so are members of the more robbery-prone segment of society.

Homicide and serious assaults. The use of firearms in these crimes will be analysed in detail in chapter 10. However, one factor stands out—the bulk of such crimes occur within the context of the family or arise out of some existing social relationship. The availability of a firearm at the time the critical incident is developing crucially affects the nature and outcome of the confrontation, invariably for the worse. Those who keep guns for protection against strangers or unspecified external threats are more likely to use them against their family or acquaintances. Alternatively, they may find that a family member or an acquaintance uses them against themselves. This is true, of course, whatever one's motive for owning a firearm; but the irony is a nice one if the purported motive for owning a gun at all is to *forestall* violence within one's household or social circle.

SUMMARY

Australian gun-owners have a variety of motives for possessing firearms. It is open to question whether protection is an acceptable motive, and it is dubious whether gun ownership would normally be effective for such a purpose. There seems to be an issue here in relation to which licensing authorities have yet to take a considered and coherent attitude.

6

MODES OF ACQUISITION

A minimal prerequisite for keeping track of the legitimately owned guns in a State's firearms inventory is a comprehensive registration system. Such a system requires the allocation of a unique serial number to each firearm, and the formulation of procedures to follow that gun throughout its life.

Such procedures are easy to lay down and enforce insofar as firearms dealers are involved in them. Thus, if a particular gun first comes into the inventory by purchase from a dealer and subsequent transactions affecting its ownership are also channelled through a dealer—for example, by way of trade-in and further sale—it is simple to ensure that records are kept, and made available to the authorities, in an effective way. The firearm should not get 'lost', for the dealer is in a sensitive commercial position and has every incentive to comply with the duties that are placed upon him.

However, as a gun's career as a disposable article of commerce continues, the practical problems that may arise in keeping track of it are likely to increase. The current owner may, for instance, sell it privately, rather than to a dealer; or he may give it away; or he may die. Whilst it is in theory simple enough to construct procedures which, *if complied with*, keep a particular gun on the records after any such eventuality, the problem is whether they will in fact be complied with. A person who sells a gun because, for example, he has decided to give up shooting is likely to be indifferent to a requirement that he notify the authorities of the name and address of the purchaser. Again, a family member who finds a gun amongst the possessions of a deceased may be ignorant of or indifferent to requirements relating to its registration. There are, in fact, several quite common situations where a gun may slip out of the traceable

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records of a State; after a few years the authorities may not really know whether it is still part of the gun inventory, or whether it is illegitimately owned within the State, or whether it has crossed State borders so as to become part of some other State's gun inventory, or what.

The issue of the proper level of ownership and use of firearms in a developed society is clearly important enough for the authorities, and the public, to be able to ascertain at any given moment the size and exact nature of the gun inventory. Is shotgun ownership showing a sudden increase? Are rifles of a larger calibre or a higher power gaining in popularity? Are interstate migrants taking or bringing firearms with them? And, above all, what sort of people own firearms; do they include persons who are not really suitable to own or use firearms at all? In other words, one needs not just a registration system for firearms, but also a licensing system for owners.

Within such a dual framework, it should be much easier to keep track of a firearm from the first moment it comes into the gun inventory until the end of its active life. The registration of a firearm would be linked with the licence of an owner. Thereafter, any disposition *inter vivos* could require either or both parties to notify the relevant details to the authorities, with sanctions including possible loss of licence for failure to do so. It could even be required that the transferor of ownership should seek evidence that the transferee is entitled to own a firearm of the type in question—for example, a shooter's licence or a permit to purchase a pistol—and that, in the absence of seeing such evidence, he would commit an offence if he went ahead with the transfer. There could possibly be a provision for spot-checks upon licensees to see that they still owned the firearms noted in the records as belonging to them and that they do not own any other firearms; alternatively, it may be considered sufficient to provide that, upon licence renewal application, the licensee should list all the guns he currently owns. If licences are of short duration, the authorities would normally be alerted to the death of a licensee without undue delay by his failure to seek renewal of his licence; they could then take steps, by field investigation if necessary, to ascertain what has happened to his firearms.

The point, then, is this: that if, and only if, a registration system is backed up by a licensing system, it is realistic to hope to keep

track of the overwhelming majority of firearms which first come legitimately into a State's gun inventory. The licence is the pressure-point to bring about owner co-operation, just as it is to bring about dealer co-operation. Such a system is perfectly feasible with manual record-keeping, given sufficient manpower, though as the years pass errors will accumulate and guns will start to be 'lost'. With computer-based data processing, a similar system is simple, at least in principle. The initial cost of setting it up is likely to be very high, of course; however, in Australia the South Australian authorities have pioneered the way so that other police authorities could benefit from their experience. The running costs thereafter will, of course, not be inconsiderable, but eventually they should be less than for a purely manual system. The reward is not so much financial as operational, however. Errors should be fewer; data can be instantaneous; control should be continuous.

At present, the systems of all but two jurisdictions are such that a considerable proportion of guns owned in the jurisdiction either never become part of the known inventory or may readily be lost from the records. With the exception of handguns, the only point at which a record of disposition is bound to be made is when a gun passes through the hands of a dealer. As has been seen in chapter 1, Tasmania and Queensland require no records at all to be kept of the disposition of long-guns; New South Wales, Victoria and the Australian Capital Territory, whilst requiring dealers to keep records, do not relate this to the registration of the firearms as such nor do they create a system whereby other dispositions will be brought to the attention of the authorities; the Northern Territory has a registration system which is too loose because not supported by a licensing system; and only South Australia and Western Australia have systems designed to follow a gun throughout its life.

South Australia has managed, in the 1977 Act and the regulations made thereunder, to create a system which is convenient for the shooter yet effective for the authorities. It is convenient inasmuch as a shooter, once he has acquired a licence of the appropriate category, is entitled to acquire as many long-guns of that category as he wishes from whomsoever he wishes; if it is by way of sale, the seller for his part must take reasonable steps to satisfy himself that the purchaser holds a licence of the appropriate class.¹ If the firearm in question has not already been registered—typically, when it is a new one, coming into the inventory for the first

time by purchase from a dealer—the purchaser must, within fourteen days, make application to have it registered; so long as the designated procedures have been properly followed and the application is accompanied by the necessary fee, the registrar is under a duty to register that firearm.² The procedures involve producing a licence and the firearm itself—a double safeguard that the dealer has not been deceived by the purchaser and that the firearm is not unsafe or has not been altered in some way.³

If a firearm is already on the Register, the seller is required to give notice of the disposition to the registrar. This notice must include details of the identity and the licence status of the purchaser. The details on the Register will then be amended accordingly, though no fresh registration of that particular firearm is required.

Owners of registered firearms are under a duty to notify the registrar upon loss, theft or destruction of the firearm or upon change of address.⁴ These duties are fortified by criminal sanctions for non-compliance, plus the general information-seeking and search powers of the police referred to in chapter 1. Dealers are under a duty to submit detailed records of sales each month.⁵

The most obvious soft spot in the South Australian scheme arises out of the death of a licensed owner of a registered firearm. The executor or administrator of the deceased's estate is not bound, upon discovering a firearm to be part of it, to notify the registrar that the licensed owner has died or that he himself is now in possession of it or that he has, in pursuance of his duties, transferred it to someone else.⁶ As licences in South Australia will normally be of three years' duration, the temporary escape of a gun from the registered inventory may not be noticed for a longish time—long enough, in fact, for several further dispositions to have occurred so that its escape is permanent.

The Western Australian scheme is just as comprehensive, but rather cumbersome and, from a shooter's point of view, unduly bureaucratic. This is because each new firearm a shooter wishes to acquire is treated as posing a new licensing problem rather than a mere matter of registration mechanics. It thus involves preliminary application to acquire the particular weapon before it can lawfully be handled, then endorsement upon the shooter's licence. This procedure means, for example, that the authorities could decide that a particular shooter owns enough firearms and will not be licensed in relation to any more of them. Whilst the Western Australian

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system has undoubtedly operated effectively in the past, it is arguable that it could be administered more flexibly yet no less effectively.

The foregoing is a backdrop to the presentation of survey information about how Australians actually acquire their guns. As will be seen from Table 6.1, they do so in a wide variety of ways—far more various, in fact, than a registration system based primarily on dealer-control can cover.

Table 6.1

MODES OF ACQUISITION OF FIREARMS, BY STATE: G.S.S. 1975

How acquired	N.S.W. %	Vict. %	Qld %	S.A. %	W.A. %	Tas. %	Total %
Purchased from dealer	54.6	56.9	56.7	54.5	59.7	50.9	55.8
Purchased privately	18.1	19.1	19.0	19.9	19.3	20.9	18.9
Gift (other than bequest)	16.1	16.5	14.7	18.8	10.2	18.1	16.0
Bequest	5.5	4.7	6.2	4.9	8.0	8.3	5.6
War souvenir	0.8	0.5	0.6	0.3	—	—	0.4
Other*	4.9	2.3	2.8	1.6	2.8	1.8	3.3

* This category includes guns held on loan, those brought home from work, those about whose acquisition the owner had no clear memory.

These figures receive general support from the other surveys; they can certainly be regarded as showing reliable trends: see Table 6.2.

The figures in Tables 6.1 and 6.2 relate to guns rather than to owners. However, it must be borne in mind that an owner of several guns may have acquired one of them from one source, another from another. The General Social Survey, treating the data from this point of view, showed that 52.2 per cent of all owners acquired at least one of their currently owned guns in some manner other than by purchasing it from a dealer, i.e. by a mode of acquisition which is, from the registration point of view, a loose one.

It can readily be seen that a firearm has, on average, only to change hands twice for one of those transactions to be other than through a dealer. A registration or record-keeping scheme which concentrates mainly on dealers' transactions and neglects or inadequately monitors other modes of disposition is vulnerable to omis-

Modes of Acquisition

Table 6.2

MODES OF ACQUISITION OF FIREARMS W.A. (1973-4), N.S.W. 1978
AND S.A. 1978

How acquired	W.A. %	N.S.W. %	S.A. %
Purchased from dealer	60.3	52.9	42.4
Purchased privately	17.8	8.7	19.7
Gift (other than bequest)	13.0	21.9	16.7
Bequest	6.1	10.3	12.1
War souvenir	0.5	0.4	0.8
Other	2.3	5.8	8.3

sion and error. It is small wonder that the New South Wales police commissioner could make only a rough guess as to the number of firearms in that State (not even knowing, indeed, how many handguns were legitimately owned) for that State's law and practice as to record-keeping looks only to the details of dealers' transactions. As mentioned above, only South Australia, henceforth, and Western Australia, for many years past, have registration/licensing systems designed to enable the authorities to keep track of the movement of firearms from one person to another by one means or another within the community.

The moral one is trying to draw is abundantly endorsed by experience in the United States. A 1968 Harris Poll, conducted for the National Commission on the Causes and Prevention of Violence, showed that about 71 per cent of firearms transactions occurred through dealers, the remainder being private dispositions of one kind or another.⁷ The figure of dealer transactions is thus significantly higher than in Australia; about four dispositions would be needed, on average, before a firearm would be disposed of other than through a dealer. Even so, the control upon sales which the 1938 Federal Firearms Act had tried to exert through placing duties upon dealers was utterly ineffective.

Specifically, the act had sought to prohibit sales of firearms by anyone to persons who were residents of other States and, likewise, the shipping of firearms to persons in other States. For dealers, the control mechanism was that they had to sign a form indicating that a customer had produced identification evidence showing that he

was not resident in another State. This form, which also identified the firearms sold and gave the purchaser's name and address, was to be retained by the dealer and kept available for inspection by agents of the Alcohol, Tobacco and Firearms Bureau. There was no similar control mechanism applicable to private transactions.

The avowed aim of the 1938 Act was thus to try to prevent local or State laws restricting the acquisition and ownership of firearms from being circumvented by interstate transactions. In this aim it failed. Zimring has analysed the reasons;⁸ most prominent amongst them was the fact that, even if all dealers had scrupulously complied with the provisions of the act, 'about half of all guns are acquired used in the United States, and more than half of these guns are acquired from private individuals'.⁹ It is imperative to take account of this factor in Australia, for it is even more pronounced.

Of course, however conceptually appropriate and mechanically efficient any particular State system may become, there remains the crucial deficiency of the effect of interstate movement of guns. For example, whatever the efficacy of the new South Australian system, a South Australian resident can still acquire a firearm in Tasmania and bring it back with him to his home State, or a New South Wales resident can move house to South Australia bringing his New South Welsh arsenal with him. The success of one State's attempt to keep an accurate record of firearms within its boundaries will inevitably be affected by the law and practice in all the other Australian jurisdictions. That is why a co-ordinated, if not a uniform, system of registration is desirable.

In the United States—where it has been estimated that there are about 20 000 different sources of firearms laws¹⁰—such an aspiration is totally unrealistic. In Australia, where there are only nine separate legal sources, co-ordinated law would be relatively simple to achieve, given the political willingness to do so. Fortified by a national, computer-based register of firearms ownership, this could facilitate a welcome rationalization of administrative practices in relation to firearms regulation in Australia.

7

TRAINING AND SAFETY- CONSCIOUSNESS OF GUN-OWNERS

There are all sorts of instruments in modern society which, if mishandled, may be highly dangerous to the user or to others in his vicinity. Motor vehicles constitute a prime example; so too does all manner of industrial machinery; and obviously firearms fall into the same category. Usually, some practical attempt is made to ensure that users of dangerous instruments are competent to prevent their doing harm. This may be as an inherent part of the process of gaining a licence, as with driving, or by on-the-job training at the insistence of management and unions, as with industrial machinery. Of course, these training efforts cannot and do not forestall mishandling altogether; but the assumption must be that there would be even more mishandling in the absence of such training.

With firearms the essence of safe use is knowledge of what *not* to do, and the continual application of that knowledge. Safety-consciousness is quite distinct from skilled marksmanship. As will be seen in the next chapter, disregard or ignorance of simple proscriptions of prudent conduct with firearms accounts for 90 per cent of the numerous accidents which occur in Australia each year.

These simple proscriptions are as follows:

1. Do not point a gun at another person.
2. Do not take a loaded gun indoors.
3. Never assume, without checking, that a gun is unloaded.
4. Do not fire past other persons or in their vicinity.
5. Do not make any awkward or unbalanced movement, such as climbing through a fence, with a loaded gun.
6. Do not leave a loaded gun in an unstable position, such as

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- loose in a motor vehicle.
- 7. Do not fire at a flat, hard surface.
 - 8. Do not release the safety catch of a gun before use is imminent.
 - 9. Do not store guns or ammunition in a place where others, particularly children, may gain access to them.

The question arises, how far are Australian shooters trained so as to minimize the possibility that they will be a danger to themselves or to others? In all the surveys, respondents were asked whether they had been trained

- (a) in the armed forces or cadets;
- (b) in the police;
- (c) at a gun club;
- (d) by a friend or relative, or
- (e) not at all.

Generally, the first three types of training can be considered adequate with regard to the inculcation of safety-consciousness, and the fourth can generally be regarded as inadequate. Obviously, this differentiation will not invariably be justified; some shooters trained in the armed forces or the police¹ or at a gun club may nevertheless be negligent in their handling of guns, whilst some trained by a friend or relative may be meticulous. Nevertheless, firearms owners whose training has been casual are by and large less likely to have had an adequate sense of safety-consciousness instilled into them than those whose training has taken place in a disciplined and structured setting. At any rate, on the basis of this differentiation it can be seen from Table 7.1 that less than half of Australian shooters appear to be adequately trained.

The trends revealed by these figures receive general confirmation from the other surveys, as shown in Table 7.2.

Amongst those I have characterized as adequately trained, overwhelmingly the most common source of such training was the armed forces or cadets, as shown in Table 7.3.

For obvious reasons, military service cannot be expected to be as fertile a source of training for future shooters. Indeed, data from the G.S.S. confirm that the decline in this type of training is already making itself manifest: see Table 7.4. The most effective 'civilian' source of training—gun clubs²—has made nowhere near the same

Training and Safety-Consciousness

Table 7.1
TRAINING OF SHOOTERS, BY STATE
G.S.S. 1975

	Untrained %	Inadequately trained %	Adequately trained %
N.S.W.	28.1	26.8	45.1
Victoria	21.2	34.8	44.0
Queensland	27.8	22.1	50.1
S. Australia	26.6	33.4	40.0
W. Australia	21.7	21.1	57.2
Tasmania	19.5	26.9	53.6
TOTAL	25.2	28.6	46.2

Table 7.2
TRAINING OF SHOOTERS: 1973/74 W.A., 1978 N.S.W. AND
1978 S.A. SURVEYS

	Untrained %	Inadequately trained %	Adequately trained %
W.A.—metropolitan	9.0	22.0	69.0
W.A.—rural	22.0	26.0	52.0
N.S.W.—rural	24.5	33.4	42.2
S.A.—rural	39.2	17.9	42.9

impact. One can anticipate that, if left to itself, the training situation will inexorably deteriorate. It may well be that positive efforts should be made to stimulate shooters into seeking their training at gun clubs, a point which will be developed in the next chapter.

Before proceeding further, one should perhaps return to the question of how justifiable it is to characterize shooters in the three ways adopted—untrained, inadequately trained, and adequately trained. In the 1978 surveys, respondents were first asked whether they had been trained in the use of firearms, much later the source of their training. Those whom I have characterized in Table 7.2 as

Table 7.3

SOURCE OF TRAINING FOR ADEQUATELY TRAINED SHOOTERS: G.S.S. 1975

	Armed forces, cadets %	Police %	Gun clubs %
N.S.W.	71.9	8.7	19.4
Victoria	78.9	4.5	16.6
Queensland	79.6	7.1	13.3
S. Australia	78.1	5.0	16.9
W. Australia	76.9	3.8	19.3
Tasmania	81.7	2.7	15.6
TOTAL	76.4	6.3	17.3

Table 7.4

TYPE OF TRAINING RECEIVED, BY AGE-GROUP
G.S.S. 1975

Age	Armed forces, cadets %	Police %	Gun club %	Friend or relation %	No training %
15-19	11.8	—	7.4	46.3	36.4
20-24	26.1	—	7.6	35.6	28.4
25-29	28.8	3.7	8.9	27.7	32.9
30-39	37.8	4.0	10.3	31.5	23.0
40-49	44.8	—	11.5	22.1	22.1
50-59	57.6	5.8	—	20.9	16.3
60 +	50.5	—	6.9	21.3	22.1

Note. Percentages in this table often exceed 100% because of multiple answers, and in one case is less than 100% because of an incomplete response.

'inadequately trained'—i.e. 33.4 per cent of New South Wales rural shooters and 17.9 per cent of the equivalent group of South Australians—overwhelmingly considered themselves to have been trained, rather than untrained. This should be put on record, so as to put the classification adopted into full perspective.

The ninth rubric of safety-consciousness, set out above, relates to the secure storage of firearms so that they may not be available for mishandling by persons other than their owner. In three States³ it is a specific offence to fail or to omit to take reasonable steps to ensure the safekeeping of a firearm. Moreover, insofar as the general law requires that a licensee of a firearm should be 'a fit and proper person', it would support non-renewal or even revocation of the licence of anyone who has negligently failed to ensure the safekeeping of a gun. Yet the evidence indicates that a majority of Australian gun-owners look after their firearms in a manner which is far from ideal.

The most cogent of the surveys, in this regard, is the 1973/74 Western Australia one. This is because data were acquired and processed in a way which permitted precise cross-tabulation of the desired information. What it was sought to ascertain was how many guns were kept in an accessible place and a readily usable condition with ammunition available in the general vicinity. Such guns will henceforth be referred to as 'active-guns'.

The point is that active-guns are as available to other persons in the household as they are to their owners. They thus can be, and sometimes are, used by others in crime, suicide and accidents. Owners, or at least badly trained owners, tend to imagine that if, for example, a gun is kept on top of a wardrobe (the most popular storage place) and ammunition in another part of that wardrobe, and if they have instructed other family members not to touch either, then the gun is safe. However, the difference between such conduct and that of the owner who kept his loaded rifle muzzle-down in the umbrella-stand is a difference of degree only, not of kind. In each case the gun is an active one, readily usable by others and readily discoverable by anyone with ordinary human curiosity.

To return now to the Western Australia survey, it was found that a surprisingly high 30 per cent of gun-owners possessed no ammunition at all at the time of the survey. It was also found that 71 per cent of house-guns were kept in an accessible place and a readily usable state. When the 70 per cent who owned ammunition were cross-tabulated with the 71 per cent whose guns were accessible and usable, it was found that 58 per cent of house-guns were active-guns.

What could not be precisely ascertained was how many of these active-guns were present in households where children lived. But as

the majority of owners are known to be of an age when they are likely to be parents of children who are still living in the family home and as the number of children per gun-owning household was significantly higher than the number of children per non-gun-owning household,⁴ it is not unreasonable to suppose that a large proportion of active-guns was available not only to other adults in the household but also to children. The accident data set out in the next chapter tend to confirm that this possibility is not mere fancy.

Questions put to respondents in the G.S.S. enabled one to calculate what percentage of guns were kept in an accessible place and a usable condition. It was also ascertained what proportion of gun-owners possessed ammunition at the time of the survey. Both these sets of figures can be seen in Table 7.5. An estimate was then made of the percentage of active-guns, by State. The basis of this estimate was that the same correlation which had been shown to exist in Western Australia likewise existed in the other States, i.e. the overlap between owners whose guns were inaccessible or not readily usable and owners who possessed no ammunition was allowed for. Such estimates are necessarily somewhat rough; it can be seen, for example, that the percentage of active-guns in Western Australia is some 4 per cent higher using this mode of calculation than it had been by direct cross-tabulation in the earlier survey. Nevertheless, it offers some very approximate guide as to the percentage of active-guns in the community, and it provides firm data for each State as to the minimum possible percentage of active-guns. Even this minimum figure (44.5 per cent) is far too high, indicating that Australian gun-owners are insufficiently sensitive to the desirability of storing their firearms safely.

By way of further explanation, a gun was treated as not being usable if it was not currently in working order, whether through defect or because it was disassembled (for example, by removal of the bolt which was then kept separately). Australia-wide, 5.5 per cent of guns fell into this category. It was regarded as inaccessible if it was kept in a safe (0.8 per cent), in another dwelling (2.8 per cent), in a box, drawer or case (11.3 per cent) or if mounted on the wall (8.3 per cent). Obviously, in the latter two cases the gun might in fact be readily accessible; the characterization is generous. Active-guns could be even more numerous than the data in Table 7.5 suggest.

However, a non-specific question simply asking whether the gun

Table 7.5

ACTIVE-GUNS, BY STATE: G.S.S. 1975

	% of owners whose guns are accessible and usable	% of owners who currently have ammunition in the house	Estimate of active-guns %	Minimum % of active-guns in inventory
N.S.W.	64.1	71.8	56.4	35.9
Victoria	65.2	75.9	58.1	41.1
Queensland	66.2	69.9	56.5	36.1
S. Aust.	74.8	74.2	61.8	49.0
W. Aust.	76.0	75.0	62.5	51.0
Tasmania	72.7	77.4	62.4	51.1
TOTAL	71.2	73.3	60.0	44.5

was secured or unsecured, whilst attracting an untypically low response rate (63.5 per cent), indicated that 23.5 per cent of surveyed owners regarded their guns as being secured. When added to the 5.5 per cent whose guns were currently unusable, this produces a figure of 29.0 per cent of owners whose guns, in terms of column one of Table 7.5, were inaccessible or unusable. This ties in very well with the figure of 28.8 per cent produced by the other mode of estimate. It suggests that the 36.5 per cent non-respondents to the initial question came overwhelmingly from the group whose guns were unsecured—a conclusion which would certainly accord with commonsense.

Those whose firearms were unsecured for the most part kept them in a wardrobe or other cupboard (57.5 per cent of all owners); a further 16.8 per cent simply left them lying about the house somewhere. The most popular rooms for keeping firearms were: a bedroom (60.7 per cent of all owners), a garage or shed (8.5 per cent) or a storeroom (4.8 per cent).

The Australian Bureau of Statistics, in its analysis of the G.S.S. data, adopted a different safety classification from the one discussed above.⁵ It divided owners into three categories. Category 1 comprised those who had received firearms training and kept their firearms in a locked wardrobe, cupboard, box, drawer or case, or

in a safe, or securely fixed to the wall. Category 2 were those who kept the gun out of sight though not locked and whose ammunition was not kept in the same place as the gun. Category 3 owners consisted of the remainder. On this basis 31.8 per cent of owners fell into Category 1, having excellent safety-consciousness; 42.8 per cent fell into Category 2, not being positively careless; and 25.4 per cent were reckless Category 3 owners.

It is considered that this mode of classification is a little naive and in some ways confusing. The notion of training in Category 1 is not helpful, for as has been shown there are degrees of training, and it seems that all training has been equated for this purpose. More pertinently, however, Category 2 owners may well include persons who, in my own terminology, own active-guns. This is because keeping ammunition in a different place from the gun itself may be no safeguard at all, as common experience frequently demonstrates. The A.B.S. classification fails to take account of this factor.

What one can work out from the A.B.S. mode of analysis is that at least 31.8 per cent of guns are not active-guns, that at least 25.4 per cent are, and that 42.8 per cent may or may not be. Thus, neither my own estimate of active-guns (60.0 per cent) nor my calculation of the minimum percentage (44.5 per cent) has been contradicted by the A.B.S. report.

In summary, all the surveys tend to confirm that the responsibilities of gun ownership are not sufficiently appreciated in Australia. The extent of training is lower than seems desirable, and is getting worse.

The question arises, what has been done about this by those authorities who possess legal power to intervene constructively in this matter? For New South Wales and Victoria, the answer is—nothing. The 'fit and proper person' formula has been used as a basis upon which to take note of such matters as previous incarceration in a mental hospital; the question of ordinary competence and safety-consciousness in handling a dangerous object has simply been ignored. Before 1977 this was also the case in South Australia. Only Western Australia seemed to have recognized that here was an issue. However, the manner in which it has dealt with it was so superficial that it is difficult to believe that it could have made any impact upon the problem which has been described.

The manner of the Western Australian intervention was as follows. The 1974 Firearms Regulations contained a new provision that

For the purposes of enabling the suitability of an applicant to be assessed, the applicant may be required to answer a written questionnaire relating to the Firearms Act 1973 and Regulations, and knowledge of firearms safety.⁶

The same year a questionnaire was in fact introduced. It takes the form of ten multiple-choice questions, eight of which applicants must answer correctly if they are to be deemed to have passed. It is, perhaps, more pertinent to put it the other way around: applicants may fail two questions and still be deemed to have an adequate knowledge of firearms safety. The questionnaire is as follows.

QUESTIONNAIRE ON FIREARMS ACT REGULATIONS AND GUN SAFETY

For each of the questions listed below, place a stroke in the square opposite the most correct answer.

1. *Why should you notify your change of address?*
☐ To keep a check on your movement.
☐ For ready service of licence renewal notices.
☐ To allow advertising matter to be forwarded.
☐ To ascertain your living standards.
2. *For safety reasons, why should your gun and ammunition always be in good condition?*
☐ To lessen the chance of accidents.
☐ To maintain resale value.
☐ Guns and ammunition look good when clean and polished.
☐ No particular reason.
3. *Why is it inadvisable to take liquor on a shooting trip?*
☐ It is difficult to carry both liquor and shooting equipment.
☐ Liquor tends to confuse one's judgment when using firearms.
☐ After shooting and drinking, cleaning of game is more difficult.
☐ Liquor spilt on firearms tarnishes the metal.
4. *What is the best way to negotiate a fence with a firearm?*
☐ Keep the loaded weapon in one hand while you climb over.
☐ Pass the loaded firearm to a companion on the other side.

- Try to hurdle the fence with the loaded gun slung over your shoulder.
Place the unloaded weapon on the ground, with the action open, then negotiate the fence.
5. *Gun repairs should be carried out by—*
A licensed repairer of firearms.
A relative or close friend with firearms experience.
Yourself.
A man with service experience.
6. *What is the first thing you should do when taking possession of a gun?*
See how heavy it is.
Ensure that it is not loaded.
Test the weapon by placing a live round in the breach and firing it into the ground.
Fire a bullet with the safety-catch on.
7. *Why is it dangerous to shoot over smooth water?*
Because of the danger of the projectile ricocheting.
Objects or targets on water may be distorted.
Whatever you shoot at may sink or be lost.
Marine life may be damaged or injured.
8. *Why does the Firearms Act 1973 forbid shooting into, from or across any road?*
Because of danger to passing traffic and pedestrians.
Because you may cause grazing animals to go onto the road.
The bullet may strike a farm fence.
Consider this offence is out of date in this modern age and may be ignored.
9. *What is the best method to receive training in the use of firearms?*
View Western and crime films.
Attend shooting parties with companions and borrow their firearms.
Join an approved gun or shooting club.
Obtain a firearm and practise in your backyard.
10. *Where is it permissible to use a firearm?*
On catchment areas.
On Crown lands.
With permission, on a safe approved property or approved club range.
From or across cleared roadways at easily seen targets.

It is hardly surprising that failure of this test is not a frequent basis for refusal of a licence. After all, an applicant who believes that the best mode of training is to watch Westerns and sees transportation difficulties as the principal reason for not taking liquor

on a shooting trip may nevertheless be a successful candidate. More pertinently, an absolutely elementary theoretical examination, taken for the purpose of eligibility for a licence, indicates nothing at all about practical conduct in relation to guns. Yet is is, above all, with practical behaviour that society is entitled to be concerned. Driving licences would hardly be granted on the basis merely of a theoretical examination about the Highway Code, the Road Traffic Act and vehicle maintenance.

South Australia has also introduced a written examination for licence applicants. Whilst its tone is more sensible than the Western Australian one, it likewise suffers from the absolutely crucial defect of testing knowledge of safe procedures merely in the abstract. It is evidently not expected that the test will constitute a substantial barrier to applicants, for it is provided that, in the event of failure, a person may re-sit the examination after an interval of two clear days.⁷

One should not, perhaps, be too hard on Western Australia and South Australia; at least they have tried to do *something*. The other jurisdictions have simply ignored the issue. The material to be presented in chapter 8 establishes beyond argument that practical training is really necessary, and a feasible scheme will be suggested.

FIREARMS ACCIDENTS

In July 1973 Australian police forces introduced a uniform reporting system for casualties involving the use of firearms. The objective was to collect more and better information about the use of guns in accidents, crimes, suicides and attempted suicides. In the event the form to be used was better suited to accident and suicide reports than to crime; police authorities seemed to prefer their previous practices with regard to the latter, and the uniform system tended to be overlooked. For a period of approximately two years, however, the quality of data about firearms accidents was unprecedentedly high throughout Australia.

In 1975 the New South Wales Bureau of Crime Statistics and Research published an analysis of accidents occurring in that State in 1973/74.¹ The present author subsequently replicated that work for Western Australia.² In 1978 a much fuller analysis of firearms accidents in South Australia during the period 1973-77 was published.³ By then, the other States seemed tacitly to have abandoned the use of the uniform report; returns to the body vested with the responsibility of collating the data (the New South Wales Bureau) were becoming sporadic and were patently incomplete.⁴ Consideration is currently being given to re-designing the report form, or possibly breaking it up into two or even three separate forms more appropriate to the particular type of occurrence in question. However, no agreement has yet been reached on this.

The author's South Australian work remains, therefore, the most recent and comprehensive in this area. It will accordingly be described here, with comparative references to New South Wales and Western Australia. No similar analysis has been made of the situation in the other States, though information has been obtained

from police authorities about Queensland for the period 1973-75. This is regarded as less satisfactory, since it is not based on the author's own direct access to the data. Nevertheless, reference will be made to it so as to give as full a picture as possible.

FIREARMS ACCIDENTS IN SOUTH AUSTRALIA, 1973-77

In the period under review,⁵ there were 141 firearms accidents resulting in casualty. Some 16.3 per cent of such casualties were fatal; in New South Wales (1973-74) the comparable figure was 13.5 per cent and in Western Australia (1973-74) 16.7 per cent. Self-inflicted injuries accounted for forty-five (31.9 per cent) of the accidents. Almost three victims in five were less than twenty years of age, a pattern similar to that in the other three States.

Table 8.1
AGE OF VICTIMS OF FIREARMS ACCIDENTS
BY STATE

Age of victim	S.A. 1973-77 %	Qld 1973-75 %	N.S.W. 1973-74 %	W.A. 1973-74 %
< 20	59.1	53.3	60.0	57.0
20-29	30.7	27.0	—	—
30-39	3.6	9.8	—	—
40-49	4.4	6.6	—	—
50 +	2.2	3.3	—	—
	N = 141	N = 123	N = 136	N = 30

The age distribution of shooters involved in accidents showed a similar pattern, with young people very much over-represented. As can be seen from Table 8.2, shooters below the age of twenty were involved in 55.1 per cent of firearms casualty accidents in South Australia, 54.7 per cent in Queensland, 58.9 per cent in New South Wales and 51.8 per cent in Western Australia. As this age-group supplies low percentages of gun-owners (8.5 per cent in South Australia, 7.7 per cent in Queensland, 9.8 per cent in New South Wales and 4.6 per cent in Western Australia),⁶ its over-representation is gross. If the at-risk group extended to shooters below the age of

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twenty-five, it can be seen that, in all States, such persons are involved as shooters in approximately three accidents out of every four. Once more this is out of all proportion to their gun-ownership rate.⁷ Even allowing for the possibility that young shooters actually use their guns more than older owners, such persons seem to be significantly over-represented in accident statistics.

Table 8.2

AGE OF SHOOTERS INVOLVED IN ACCIDENTS BY STATE

Age of shooter	S.A. 1973-77 %	Qld 1973-75 %	N.S.W. 1973-74 %	W.A. 1973-74 %
<10	9.3	6.8	2.3	10.3
10-14	10.1	47.9	18.6	24.2
15-19	35.7		38.0	17.3
20-24	19.4		15.5	24.2
25-29	15.5	10.3	9.3	10.3
30-34	3.1	7.7	7.0	3.3
35-39	2.3	2.6	3.0	—
40 +	4.7	9.4	6.2	10.3
	N = 141	N = 123	N = 136	N = 29

When so many shooters involved in accidents are so young, one would also expect inexperience as a shooter to show up as a feature. This is in fact the case.

Table 8.3

EXPERIENCE OF SHOOTERS INVOLVED IN ACCIDENTS BY STATE

Years of experience	S.A. 1973-77 %	Qld 1973-75 %	N.S.W. 1973-74 %	W.A. 1973-74 %
Less than 1	38.5	35.4	36.0	47.4
1-4	31.7	29.3	35.2	31.6
5-9	12.5	11.1	9.0	10.5
10 +	17.3	24.2	19.8	10.5
	N = 111	N = 99	N = 111	N = 19

Firearms Accidents

However, it did not emerge that inexperience was a significant factor independent of youthfulness. In South Australia, shooters over the age of twenty-five who became involved in accidents were generally very experienced, three-quarters of them having more than ten years' experience. The mature but inexperienced shooter does not seem to be such a danger to himself and others as the immature and inexperienced shooter. It is possible that the mature and experienced shooters who feature in accidents are the sorts of individual who have a peculiar inability to profit from experience. Alternatively, they may have been badly trained in the first place—a possibility that is not entirely fanciful when it is recalled that South Australian shooters emerged as the most ill trained in Australia.⁸

Circumstances of Accidents

Firearms casualty report forms set out various possible causes of the particular accident, of which the reporting police officer may nominate only one. In addition, the circumstances of the accident may be briefly summarized on the report form. When one reads these summaries, two matters emerge: first, that some accidents could as well be categorized one way as another (e.g. 'victim moved into line of fire' can overlap with 'victim out of sight of shooter'); second, that a category of 'general mishandling' is needed, to indicate that the accident arose out of conduct with a gun which no properly trained or prudent shooter should have indulged in but which is not precisely covered by any of the specific heads. This point is illustrated by the following cases.

Case 1. The deceased, aged sixteen, and his friend, aged fifteen, were playing with a rifle. The friend pointed the rifle at the deceased, cocked it, and pulled the trigger three times. On the first two occasions, the weapon did not discharge; but the third time it did. An examination of the rifle revealed a faulty feed mechanism. On this basis, the police characterized the accident as due to a defect in the weapon. It is better categorized as 'general mishandling', however, inasmuch as the conduct preceding the accident is archetypal of what should never be done with any firearm.

Case 2. The shooter was cleaning the telescopic sight of his rifle. He was unaware that the rifle was loaded. As he placed the gun on the floor, it discharged. The bullet hit a boy standing in a

school playground some distance away. The police nominated 'other cause' on the report form. 'General mishandling' would be a more informative categorization, since to clean any part of a firearm without ensuring that it is unloaded is to ignore the most elementary safeguard.

Case 3. A shooter had shot and wounded a wild dog. He went over to where it was lying, and it jumped up at him. He jabbed at it with the butt of his rifle, which discharged upon impact with the dog's head. The shooter was injured. The police, understandably nonplussed by the sheer folly of this conduct, did not categorize it in any way at all. A category of 'general mishandling' would be appropriate, however.

Table 8.4 accordingly superimposes this new category upon South Australia accidents. It has not been possible to do the same thing in relation to accidents in the other States, so the data which emerge must be compared and evaluated in that context.

In considering this table, the nine rubrics of safe gun handling, set out in the previous chapter,⁹ should be borne in mind. It will then readily be seen that the first twelve accident causes in Table 8.4 amount to breaches of one or more of those simple rubrics. This is so not only in abstract analysis, but also when the actual circumstances, as described in the reports, are examined. There are virtually no occasions when breach of one of those rubrics has occurred in the course of prudent gun use. On that basis, one can say that 93.4 per cent of South Australian accidents were due to shooter incompetence. The comparable percentages for the other States were: Queensland, 90.9; New South Wales, 80; Western Australia, 80.

In 24.8 per cent of the South Australian cases, the shooter was someone other than the owner of the firearm. In Western Australia, the comparable figure was 50 per cent, but figures were not available for the other two States. However, in each case the percentage must have been considerable, since a high proportion of shooters were of an age at which they could not lawfully own firearms in their own right.¹⁰ This was also true of South Australia; of the 34 cases where the shooter was a person other than the owner, 13 concerned shooters below the age of ten, 6 shooters between ten and twelve, and 10 shooters of thirteen or fourteen years of age. Typical situations were as follows.

Case 1. The owner left his loaded rifle in his car. His children found it, and started to play with it.

Table 8.4
CAUSES OF FIREARMS ACCIDENTS

Cause of accident	S.A. 1973-77 %	Qld 1973-75 %	N.S.W. 1973-74 %	W.A. 1973-74 %
1. Victim moved into line of fire	8.9	5.5	8.2	10.3
2. Victim out of shooter's sight	4.4	3.6	3.1	—
3. Shooter stumbled	4.4	10.0	12.0	6.9
4. Weapon fell from insecure vest	3.0	7.3	4.6	3.4
5. Ricochet	5.2	11.8	7.4	6.9
6. Trigger caught in some external object	1.5	4.5	5.2	10.3
7. Firearm being transferred to or from motor vehicle	9.6	5.5	8.2	10.3
8. Riding in motor vehicle with loaded firearm	12.6	4.5	3.8	3.4
9. Horseplay	7.4	25.5	12.0	13.7
10. Crossing obstacle with firearm	2.2	1.8	4.6	—
11. Mishandling				
(a) loading	0.7			
(b) unloading	6.7	32.6	10.9	10.6
(c) general	25.2			17.2
12. Victim mistaken for game	1.5	—	—	—
13. Defective				
(a) weapon	5.2	5.9	5.5	3.7
(b) ammunition	0.7			10.3
14. Other	0.7	3.6	16.4	6.9
	N = 137	N = 123	N = 108	N = 29

Case 2. The owner left his loaded rifle in his bedroom. His three children, all aged less than ten, took it and started to play with it.

Case 3. The owner left his unloaded rifle in a wardrobe and his

ammunition in a dressing-table drawer. His nine-year-old son took the rifle, searched for and found the ammunition, loaded the rifle and began to play with it.

Case 4. The owner put his loaded rifle onto the back seat of his car, then put his two young children into the back seat. During the subsequent journey, the children began to play with the gun.

The accidents arising out of these situations could readily have been avoided by a modicum of commonsense and adherence to the elementary rule that firearms and ammunition should not be left in a place where others, particularly children, may gain access to them. As argued in chapter 7, particularly from Table 7.5, it seems likely that the majority not just of South Australian but also of Australian gun-owners ignore this simple rule.

FIREARMS ACCIDENTS IN OTHER COUNTRIES

Australian experience is not, of course, unique. Wherever there is a substantial rate of private gun ownership, there also seems to be a worrying accident rate. New Zealand data have been analysed in terms not dissimilar to those discussed above,¹¹ and will accordingly be considered first.

In the ten-year period 1965-74 there were 506 firearms accidents causing injury; 180 of them were fatal. Just over half of the victims were twenty or less; one-fifth of them were under sixteen.¹² The nominated causes (and it seems that the New Zealand practice is to nominate more than one cause if this seems appropriate)¹³ show a broad similarity to those found in Australia, as Table 8.5 indicates. Even if 'other causes' does not in fact encompass 'general mishandling', it can be seen that almost 80 per cent of firearms accidents in New Zealand are due to shooter incompetence or carelessness of one kind or another.

In the United States, as one would expect, accidental fatalities involving firearms occur at a much greater rate than in Australia. During the period 1957-67 the annual number of such deaths averaged 2400, and appeared to be rising.¹⁴ In addition, it was known that there were very many non-fatal casualties a year, perhaps as many as 100 000.¹⁵ If Australian experience is any guide, some of these accidents would be certain to be extremely serious in their effects.¹⁶

Rushforth et alia, analysing fatal accident rates for the Cleveland

Table 8.5

CAUSES OF FIREARMS ACCIDENTS IN NEW ZEALAND, 1970-72

Cause	Number	%
1. Victim moved into line of fire	7	3.0
2. Victim out of shooter's sight	13	5.7
3. Firing at movement	16	7.0
4. Firing at a sound	1	0.4
5. Ricochet	5	2.2
6. Firearm being transferred to or from a motor vehicle	12	5.2
7. Riding in a motor vehicle with a loaded firearm	8	3.5
8. Crossing obstacle with firearm	9	3.9
9. Mishandling (a) loading	7	3.0
(b) unloading	7	3.0
10. Pulling firearm towards self by muzzle	8	3.5
11. Dropping or throwing firearm	8	3.5
12. Leaving firearm loaded	61	26.5
13. Defective (a) weapon	13	5.7
(b) ammunition	—	—
14. Other causes	35	15.2
15. Liquor involved	20	8.7
N = 230		100%

area for the period during which it is generally assumed that private ownership of firearms underwent a dramatic increase, concluded that there is a direct correlation between gun availability and such accidents.¹⁷ In particular, handgun availability was a most important determinant. This research lends specific support to the more generalized conclusions reached earlier by Newton and Zimring.¹⁸

So it seems that the incidence of handgun ownership is very important in this area, just as it is in crime. This is a notable distinction between the United States and Australian positions. In fact, 83 per cent of all accidental firearms fatalities in Cleveland involved handguns; 78 per cent of these occurred in the home; and two-thirds of them occurred when the handgun was being handled for some purpose other than normal shooting activity—for example, 'playing' with it in some way. Adults were even more likely than

children to inflict injuries upon themselves; half of such victims had been drinking liquor shortly before the accident.¹⁹ In Australia and in New Zealand, handguns account for a tiny proportion of accidents—about 2 or 3 per cent.

None of the American work addresses itself to the question of the training of shooters involved in accidents. This is not really surprising, for the wide-open access to firearms in most of the United States would render such a question too hypothetical to seem worth answering. Competence and safety-consciousness with firearms are simply irrelevant to the basis of ownership.

In Canada, accidental firearms fatalities have in recent years averaged about 125 a year.²⁰ Per capita, this is only about one-third of the rate in the United States. Whilst no analysis of the types of weapon involved and the circumstances of the accidents appears to have been made, it is perhaps not without significance that the handgun ownership rate is very much lower than that in the United States—certainly less than 10 per cent.²¹

The United Kingdom seems to have the best record; the number of accidental firearms fatalities averages around seventy annually.²² No worthwhile analysis of the circumstances is available, however.

It is apparent, then, that avoidable casualties are frequently caused by the misuse of firearms. One should try to put it into a broader social perspective. It has been suggested, on the one hand, that during the period of Australia's military involvement in the Vietnam War, more citizens were accidentally killed in the homeland than fell to enemy action on the battlefield.²³ On the other hand, it can be seen from Table 8.6 that deaths from firearms accidents are very low in the scale of civilian accidental deaths generally—a pattern which is also true for all the other jurisdictions which have been mentioned above.

Whichever of these two perspectives one prefers, it can hardly be denied that accidental firearms casualties constitute a problem worthy of society's attention. Of course, if the only kind of intervention which would be likely to affect it is a massive one—for example, the total prohibition of private ownership of firearms—then the remedy would be out of all proportion to the disease. But if there is a simple remedy that would be effective, then it would be well worth adopting. My contention is that there is such a simple remedy—improved training. If it were a prerequisite of any kind of

Table 8.6

CIVILIAN ACCIDENTAL DEATHS AUSTRALIA 1973

Cause	Number	Rate per 100 000
Motor vehicle accidents	3825	28.83
Falls	1153	8.69
Machinery; industrial	800	6.03
Drownings	437	3.29
Other transport	257	1.94
Fire	174	1.31
Poisoning	113	0.85
Firearms	46	0.35
N = 6805		

firearms licence that one received and demonstrated one's grasp of training as to what *not* to do with a firearm, it is my contention that there would be a reduction in the number of firearms accidents, the vast majority of which are due to shooter incompetence. The data set out in chapter 7 certainly show that we should feel no complacency about the training standards of Australian shooters.

It must be conceded that one has not been able to establish, in a way which would satisfy a statistician, a mathematical correlation between avoidable accidents and poor training. Ideally, one would wish to prove that the two phenomena really do intersect and not merely exist in parallel. Unfortunately, on the information available it has not been methodologically possible to do this; accident report forms contain no information about the training of the shooter or, where the shooter was not the owner, that of the owner. The only sure way of ascertaining whether the suggested link is indeed present would be to take a sample of, say, a hundred accidents, analyse the circumstances of each fully, obtain detailed information as to the training of the shooter (or owner), then correlate this to training patterns generally to see whether badly trained or completely untrained persons contribute to avoidable accident situations more often than, at random, they should.

However, such an undertaking would be more trouble than it was worth. One's commonsense conviction that there must be a causative link is fortified by experience in New Zealand and Canada.

For New Zealand, where 17½ per cent of shooters are members of gun clubs, Forsyth states:

For 1970-72 . . . 94% of the shooters involved in accidents were not members of any club associated with shooting. Clubs are of great use in the promotion of all aspects of safety with firearms, and it appears that they are having much success in the prevention of accidents with firearms. Experience with firearms may prevent accidents from happening; but available data suggest the likelihood of accidentally discharging a firearm is fairly evenly spread—45% of accidents involved experienced shooters and 55% inexperienced shooters.²⁴

With regard to Canada, Friedland states:

The Province of Ontario discovered that, after it had instituted a hunter safety programme, accidental shootings dropped significantly.²⁵

Firearms accidents, then, constitute a social problem. There is no reason to suppose it will spontaneously abate. To the extent that shooter incompetence is at the root of the problem, it should be possible to minimize it without substantial countervailing detriment. In this regard it is more viable than, say, motor vehicle or industrial accidents, each of which could only be substantially reduced if the community were prepared to accept the considerable social inconvenience and economic cost of doing so. With firearms accidents, such factors should be negligible if an appropriate scheme were adopted. The scheme I have in mind proceeds from the premise that ownership of a firearm, of whatever sort, should be denied to persons who cannot show that they have participated in and passed a training course designed to instil a proper sense of safety-consciousness and to teach prudent procedures.

How could one implement such a scheme? How could one ensure that such training is available as a licence prerequisite to all those who wish to become shooters? Almost certainly, police authorities lack the necessary resources to carry out directly all such training and testing; moreover, it is doubtful whether they would even wish to take on such a function. It would be no less efficient, however, to delegate these tasks. Police authorities should be empowered to approve as training and testing authorities such shooters' clubs, registered for this purpose with the police, as they should decide. A certificate of competence issued by such a club would then be prima

facie evidence that an applicant was a fit and proper person to be granted a firearms licence of the appropriate type.

Such an approach would keep the whole scheme administratively feasible. For the licensing authorities, there would be the attraction of having to monitor the performance of a relatively few delegates, rather than of thousands of potential new shooters. This could be done by physical inspections and also by analysis of firearms casualty reports. It is thus a corollary of such a proposal that the present report form be re-designed so as to provide an even more comprehensive range of information about the circumstances of accidents and the characteristics of those involved in them, including where and when they received their training and gained their certificate of competence. If the trainees of any particular club began to appear too often in such reports in circumstances suggesting inadequate safety-consciousness, the police authorities would be alerted to the possible need to review the approved status of that club.

For shooters' clubs, the dual incentive for participation in such a scheme would be status and finance. Training costs money; each trainee could contribute his share. It is not regarded as an unwarranted imposition, by persons wishing to acquire the skill of driving motor vehicles, to pay quite sizeable fees to driving schools; nor should it be so regarded to learn how to handle firearms safely. Dispensation, or reduction, of fees might be appropriate for those who need firearms as work-tools—farmers, for example. But that sort of consideration is a detail, one of many which would need settling if such a scheme were to be implemented. This is not the place to attempt to supply such detail; the point is to urge a fresh approach, one which takes account of the realities of shooting and the problems it can pose.

Existing legislation could readily support such a scheme in Western Australia and South Australia;²⁶ so probably could the statutory provisions of Victoria and New South Wales.²⁷ The situation in the Australian Capital Territory is less clear,²⁸ and the registration approach of the Northern Territory would not be readily adaptable to this scheme.²⁹ The wide-open States of Tasmania and Queensland would, of course, need completely new legislation. In each case, a certificate of competence should be a necessary, but not a sufficient, prerequisite to the grant of a licence; the licensing authorities would still be able to reject the

application of an apparently competent shooter on the basis of his mental state or criminal record or any other factor recognized by the applicable law.

When first I argued for some such approach as the foregoing, there were two principal arguments that it was not easy to meet. The first was that one was assuming too much about the standards of shooters' clubs, that my own subjective impressions of their concern for safety was too insubstantial a foundation upon which to construct a major shift in gun-licensing strategy. The second was that, in any case, it was too theoretical, it was a model rather than a practicable scheme. With the passage of time, the first of these objections can now be shown to have been ill based, and the second may well soon be refuted.

As to the first, it will be recalled that the A.B.S., in its own analysis of the G.S.S., divided safety-consciousness into three categories. My own criticism of the method of classification³⁰ did not involve questioning that the bureau's Category 1 shooters were indeed those who displayed a high degree of safety-consciousness. It emerged that gun-club members were significantly more likely to fall into such a category than were shooters who were not members of such clubs.

Table 8.7

SAFETY-CONSCIOUSNESS OF MEMBERS AND NON-MEMBERS OF GUN CLUBS
ADJUSTED PERCENTAGES,* G.S.S. 1975

	Category 1 %	Category 2 %	Category 3 %
Club members	52.1	29.0	18.9
Non-members	31.0	46.4	22.6

* For club members it was only possible to ascertain the category of 85.3%, for non-members, 96.4%. The figures have been scaled up to take account of these omissions.

As to the second point, there is now a precedent which in due course should be able to be evaluated. In August 1977 the Canadian Criminal Code was amended so as to create the following legislative scheme. No person may purchase a firearm, nor may any other person sell him one, unless he has a firearms acquisition certificate.

Application for such a certificate must be made to a local firearms officer who shall grant one 'if he does not have notice of any matter that may render it desirable in the interests of the safety of the applicant or any other person that the applicant should not acquire a firearm'.³¹ Such matters include being under the age of sixteen,³² being subject to a firearms prohibition order,³³ being insane,³⁴ having recently been convicted of certain kinds of offence,³⁵ and not being able to satisfy the firearms officer that 'he has completed a test relating to the safe handling or use of firearms or successfully completed a test relating to the safe handling and use of firearms approved by the Attorney-General of the Province'.³⁶

This new scheme has run into some political difficulties, which include disappointed provincial expectations that the federal government would fund the whole scheme, ambivalence amongst some police authorities and a clever campaign by a suddenly spawned gun lobby which Canada had not previously realized it possessed. Nevertheless, it is expected to be proclaimed law in due course. If this happens, the shooter-competence approach—evidently drawing upon the Ontario experience referred to by Friedland³⁷—should be able to be evaluated a few years thereafter. Meanwhile, the political complications experienced in Canada should not inhibit Australian legislators from attempting in a comparable way to find new solutions for old problems.

THE USE OF FIREARMS IN SUICIDE

There is a firm and continuing trend for guns to be used in Australia as a means of self-destruction.

Table 9.1

GUN SUICIDES IN AUSTRALIA, 1975-77 BY SEX, WITH PERCENTAGES OF TOTAL NUMBER OF SUICIDES

	Male	Female	Total
1975	365 (34.8%)	33 (6.9%)	398 (26.1%)
1976	398 (36.3%)	31 (7.6%)	429 (28.5%)
1977	384 (34.0%)	36 (8.2%)	420 (27.0%)
TOTAL	1147 (35.0%)	100 (7.6%)	1247 (27.1%)

As can be seen, the gun is a weapon chosen much less often by females than by males. However, because males commit suicide about 2½ times more often than females, guns remain overall a major means of killing oneself, second only to drugs or poison. About 44 per cent of suicides occur by the latter means (64 per cent of females, 36 per cent of males). This trend also is firm and continuing.

It seems likely that a gun is the most efficacious available means of completing the presumed intent of killing oneself. A study by the New South Wales Bureau of Crime Statistics and Research indicated, for example, that in 1973 some 72 per cent of genuine suicide attempts involving the use of guns ended in death.¹ The measure of

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genuineness was, in the case of survivors, the location and severity of the wounds suffered. The bureau did not, however, analyse the comparative efficacy of other means. Indeed, there is an obvious methodological problem in trying to distinguish between genuine but unsuccessful attempts to kill oneself and attention-seeking episodes, except in the most gross cases.

A more comprehensive study of the comparative efficacy of methods of suicide was made with regard to Los Angeles County in the year 1957. The basis for assessing the genuineness of the attempt was psychiatrists' ratings reached at subsequent interviews; this, of course, is not entirely satisfactory. Nevertheless, the study remains the most systematic yet made of this aspect of suicide. It analysed 1368 male suicide situations (of which 520 were successful) and 2068 female situations (269 successful) from the point of view of the means used and the completion rate (Tables 9.2, 9.3).²

Table 9.2

METHODS OF SUICIDE ATTEMPTS AND COMPLETED SUICIDES
MALES, LOS ANGELES COUNTY, 1957

Method	% attempts	% of such attempts ending in death	% of all completed suicides
Firearms	19	84	42
Barbiturates	26	20	14
Cutting, etc.	17	8	4
Poison, gas	10	23	6
Hanging	8	83	17
Jumping	2	67	3
Carbon monoxide	1	82	2
Drowning (jumping)	*	100	10
Other	17	5	2

* Less than ½ %

It can be seen that jumping from a height into water and thereafter drowning was the most effective method for both sexes; however, it was one selected only by a tiny proportion. Of the major modes of attempting suicide, firearms use was the most efficacious. Females were a little less competent at bringing about their presum-

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Table 9.3

METHODS OF SUICIDE ATTEMPTS AND COMPLETED SUICIDES
FEMALES, LOS ANGELES COUNTY, 1957

Method	% attempts	% of such attempts ending in death	% of all completed suicides
Firearms	3	67	17
Barbiturates	53	9	36
Cutting, etc.	13	4	4
Poison, gas	12	8	9
Hanging	2	47	7
Jumping	1	33	2
Carbon monoxide	1	5	*
Drowning (jumping)	*	100	5
Other	15	16	19

* Less than ½ %

ably intended objective by this means; this was probably explicable by their lesser familiarity with such weapons before the occasion of the attempted suicide itself. Of course, their initial selection of such means was much less frequent, as is the case in Australia; presumably, this would be partially accounted for by different ownership patterns, again as in Australia.³ Although various other means also show a high degree of efficacy, the abiding impression is that a gun is a particularly effective means of self-destruction.

That being so, the following questions arise. Does the initial selection of a gun indicate a firmer intent than the selection of some less effective means? Or is it that gun users as a group have about the same firmness or ambivalence of intent as others who attempt suicide by a less efficacious means? The latter, having a higher survival rate, naturally have a greater opportunity to re-think the matter than gun users. Presumably some of them do not go ahead and complete their original undertaking; presumably, also, some gun users who succeeded in killing themselves would, had they failed initially, likewise have changed their minds. Does greater firearms availability, therefore, lead to greater use of firearms in suicide, thereby in turn artificially inflating the overall suicide rate?

One way⁴ of trying to surmise sensibly about this almost im-

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ponderable problem is to compare general suicide rates amongst communities of a generally similar cultural and socio-economic structure but with differential access to and familiarity with firearms. Two questions then arise: do the communities with greater gun availability have higher gun suicide rates, and if so are the general suicide rates of such communities also higher? If both these questions are answered in the affirmative, the distinct possibility is thus raised that greater gun availability and gun use has indeed artificially inflated the general rate. But if either question is answered in the negative, it would suggest that suicide rates are not fundamentally affected by the means available.

Australian evidence collated by the New South Wales Bureau of Crime Statistics and Research seems to support the view that guns, where available, will be used more frequently in suicide but without inflating the overall rate. They are used, in other words, as a ready and convenient means by persons who otherwise would carry out their intent as effectively as they could in some other way. This conclusion is based upon a comparison of general suicide rates and gun suicide rates in various parts of New South Wales.⁵

Table 9.4

GUN SUICIDE AND GENERAL SUICIDE RATES THROUGHOUT N.S.W., 1973

Area	Population	Number of gun suicides	Gun suicide rate per 100 000	General suicide rate per 100 000
Sydney	2 807 828	21	0.75	14.6
Newcastle	146 009	5	3.4	8.2
Wollongong	161 143	4	2.5	13.0
Remainder of State	1 486 200	65	4.4	10.2

As can readily be seen, rural residents were six times more likely to commit suicide with a gun than Sydney residents. Yet the general suicide rate for Sydney was markedly greater. It will be recalled that the rural gun-ownership rate in New South Wales is approximately three times greater than the urban rate;⁶ also, that the proportion of active-guns is markedly greater in rural than in urban

Table 9.5
AUSTRALIAN SUICIDE RATES 1975-77

State	Guns per 1000 persons	% of gun- owning households	Suicide rate per 100 000 p.a.	Suicide by firearms %		Suicide by drugs, etc. %		Suicide by hanging, etc. %		Other methods of suicide %	
				M	F	M	F	M	F	M	F
N.S.W.	189	25.4	10.74	30.2	7.7	38.1	57.9	16.8	11.2	14.9	23.2
Victoria	145	27.4	9.46	34.9	7.0	33.7	62.5	17.1	11.8	14.4	18.8
Queensland	179	28.9	12.97	44.1	6.7	32.9	72.4	14.6	6.2	8.4	14.8
S.A.	162	26.5	11.35	45.0	13.0	29.8	69.6	15.5	7.8	9.7	9.6
W.A.	136	19.5	9.91	21.1	1.2	48.7	67.5	16.6	17.5	13.6	13.8
Tas.	211	31.7	10.24	44.4	10.5	33.3	60.5	10.0	10.5	12.2	18.4
N.T.	not known	not known	11.00	53.9	42.9	15.4	42.9	23.1	14.3	7.7	—
A.C.T.	as N.S.W.	as N.S.W.	9.55	28.2	—	38.5	82.6	20.5	8.7	12.8	8.7
Australian Total	167	26.3	11.15	35.0	7.6	35.9	63.5	16.2	10.6	12.9	18.4

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households.⁷ Accordingly, it should occasion no real surprise that guns are used more frequently as a means of self-destruction in country areas.

Of course, the sample of one year's suicide in one State is rather small. Can one test the same propositions against more comprehensive data? Table 9.5 attempts to do so. It consolidates Australian suicide statistics, by State and Territory, for the three-year period 1975-77. The total of 4598 suicides (3276 male, 1322 female) is then subdivided into major modes of committing suicide. A further subdivision is made by sex. Against these figures are set two measures of possible gun availability—guns per 1000 persons and percentage of gun-owning households. A third measure—the number of active-guns—is omitted because it is arguably too speculative.

It is not easy to perceive marked patterns in this collection of data. Whilst, for example, it is true that Queensland has both a high general suicide rate and a high gun suicide rate, its gun availability is in the average range. On the other hand, Western Australia is low on all counts—general suicide rate, gun suicide rate and gun availability. But then Tasmania, with very high gun availability, has a low suicide rate and about an average gun suicide rate. The very absence of any clear pattern, therefore, seems to militate against any correlation between gun availability, gun suicide and general suicide. This would likewise be the case if suicide rates were measured against estimated rates of active-guns.

Of course, males have both a higher general suicide rate and a higher gun suicide rate. Is there any correlation, by State, between these two phenomena, therefore?

Once more no cogent pattern emerges (see Table 9.6). Queensland, with the highest overall rate, also has one of the highest gun suicide rates; by contrast, Tasmania has a low overall rate. Western Australia's achievement in having a very low gun suicide rate is not paralleled with regard to its overall rate. The available data lack any uniform pattern, therefore; they simply do not support a link between the two.

A comparable analysis which has been made in the United States produced similar conclusions.⁸ The context of the enquiry was the very high gun suicide rates (male and female) in the southern States. Yet these existed side by side with an average overall suicide rate (see Table 9.7).

It was the researchers' view that these data raised only the prob-

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lem of why Southerners committed suicide with guns rather than by some other means. The answer, they considered, lay in the combination of high gun availability in the South,⁹ and greater socialization to and familiarity with guns amongst Southerners. The latter they sought to establish by questionnaires to two samples of Southerners and non-Southerners as to whether respondents had ever fired guns, were brought up in a household where firearms

Table 9.6

MALE SUICIDE RATE AND GUN USE IN SUICIDE, AUSTRALIA 1975-77

State	Suicide rate per 100 000 males	Suicides by firearms %
N.S.W.	15.02	30.2
Victoria	13.04	34.9
Queensland	19.08	44.1
S. Australia	16.54	45.0
W. Australia	15.22	21.1
Tasmania	14.40	44.4
TOTAL	15.88	35.0%

Table 9.7

SUICIDE RATES BY REGION, WITH PERCENTAGE OF GUN SUICIDES BY SEX
U.S.A. 1970

Region	Suicide rate per 100 000	Firearms suicide %	
		M	F
South	11.4	73.2	49.3
West	17.1	53.8	24.2
North Central	10.8	56.3	26.9
North East	8.7	41.6	15.1
TOTAL	11.6	58.4	30.2

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were owned, handled guns at a young age, etc. Their conclusion is that the use of firearms for self-destruction is a function of the normative patterns of socialisation with firearms, which differ for males and females and between regions of the country'.¹⁰

Whilst the methodology of their socialization survey is not ideal,¹¹ their findings receive some support from earlier analysis by Newton and Zimring. These researchers compared 1967 general suicide and gun suicide rates in twenty developed countries, and formed the view that 'cultural factors appear to affect suicide rates far more than the availability and use of firearms'.¹²

It seems, then, that whatever arguments might be made for the limitation or regulation of the private ownership of firearms, suicide patterns do not constitute one of them. That is not to deny that, if slower means of self-destruction are utilized, some individuals might be saved and might not subsequently attempt suicide again. Nor is it to discount the possibility that the presence of a firearm in the home may somehow form part of an individual's psychological causal chain, leading to a suicide attempt. However, these points are peripheral to the main issue. It is not an acceptable basis of law-making to legislate for the whole community so as to save a few people from themselves, even if it could in fact be shown that any particular firearms control would achieve such an effect. Gun suicides are a fact of human existence, indistinguishable in moral or social terms from any other means of suicide.

THE USE OF FIREARMS IN HOMICIDE AND SERIOUS ASSAULT

Violent crime, the personal tragedies it brings about and the social alarm it engenders, is quite properly a matter of profound community concern. Human passions and vices obviously exist irrespective of the degree of firearms availability. But a question which is often asked—one which is at the core of the 'gun control debate', particularly in the United States—is whether or not the availability of firearms exacerbates the effects of discord, bringing about some deaths where there might otherwise only have been serious injuries and some serious injuries where there might otherwise only have been trivial ones. This question is paralleled with motor vehicles: 'Speed causes accidents', say some; 'No, bad driving causes accidents', say others. Yet it can hardly be doubted that bad driving is generally more dangerous at high than at low speed.

In the context of gun use, there are strong protagonists for both approaches. As early as 1958 Wolfgang argued, on the basis of his study of criminal homicide in Philadelphia, that

few homicides due to shootings could be avoided merely if a firearm were not immediately present The offender would select some other weapon to achieve the same destructive goal.¹

The one exception he would admit is where the long-range capacity of the weapon was essential to the perpetration of the particular crime, as in the shooting of policemen. Greenwood, analysing English experience, gave general support to Wolfgang's approach:

the presence or absence of a firearm, or of any other type of

weapon, is of far less importance to the outcome than the passion generated in the attacker. The man who has lost control will cause serious injuries in many cases, quite irrespective of the weapon he uses and regardless of the certainty of detection and punishment. Where the anger or passion is less, the attack is frequently more a demonstration of anger than an assault carried to a conclusion.²

This sort of approach represents the wrongdoer as single-minded, clear in his objectives and determined to carry them out. It epitomizes a rather simplistic and one-dimensional notion of human behaviour, one which would fit a hit-man or professional criminal rather more suitably than the bulk of those people who resort to violence against others.

Zimring was the first writer to attempt to submit Wolfgang's approach to scientific evaluation. In his seminal article, 'Is Gun Control Likely to Reduce Violent Killing?',³ published in 1968, he analysed Chicago Police Department records relating to homicides and serious assaults for the years 1965, 1966 and 1967. His arguments are so important that they require full exposition.

The first question he sought to explore was that of intention. Clearly, in a fundamental sense, we can never *know* what another man's intention was at any given moment, what was actually going on within his head and controlling his psyche. Even a finding of a jury at a criminal trial does not really establish this; it merely settles it for purposes of the administration of the criminal justice system. The best one can ever do, then, is to surmise; but the circumstances of the attack itself can do something to make our surmises realistic.

One such circumstance is the relationship between the parties involved. Zimring found, from 554 Chicago homicides of 1967, that three-quarters of the victims had a tangible pre-existing relationship with their killer (see Table 10.1).

The immediate trigger for the lethal attack was also ascertained; overwhelmingly, an altercation of some kind was the occasion, which is a far cry from the cool, single-minded assessment of whether or not to kill which Wolfgang and Greenwood would attribute to offenders (see Table 10.2).

Liquor is a sure lubricant for altercations; Zimring found that in 54 per cent of homicides one or both parties had been drinking just prior to the incident. This fortifies his general comment, regarding homicides arising out of altercations, that they are 'precisely the

Table 10.1

RELATIONSHIP BETWEEN HOMICIDE VICTIM
AND ATTACKER, CHICAGO 1967

	%
Friends, acquaintances	41
Spouse, lover	20
Other family	7
Neighbours	3
Business	3
No relationship	22
Undetermined	4
	100%

Table 10.2

MOTIVE FOR HOMICIDAL ATTACKS
CHICAGO 1967

Altercations		82%
General domestic	17%	
Money	9	
Liquor	7	
Sex	2	
Triangle	6	
Racial	1	
Children	2	
Other	38	
Teenage gang disputes		3%
Robbery		12%
Strongarm	3%	
Armed	9	
Other motive		3%
		100%

situations where the intention is apt to be ambiguous rather than single-minded'.⁴ He continues: 'It may be inferred . . . that many homicides are related to variable states of intention, and that a sig-

nificant proportion do not result from an attack committed with a single-minded intention to kill.'⁵ Of course, his data do not, cannot, *prove* this; but they raise an inference far more reasonable, far more consonant with commonsense and common observation than the contrary one.

The question therefore arises: are guns more dangerous than alternative available weapons? If they are, to reduce their availability would potentially be to reduce the homicide rate, 'which is a function of the dangerousness of the weapon used multiplied by the number of serious attacks'.⁶ The criterion of 'dangerousness' in this context is not that of greater capacity to mount an attack at all (for example, because of the range of the weapon); it is one of whether consummated attacks with weapon A are more likely to bring about death than consummated attacks with weapon B.

Accordingly, Zimring breaks down 1967 Chicago homicides into deaths by weapon:

Table 10.3

DEATHS BY WEAPON, CHICAGO 1967

	%
Guns	52
Knives	30
Other weapons	8
No weapon	10

Anticipating the argument that the choice of a gun may indicate something about the intended nature of the attack which is about to be carried out, Zimring now examines the motive of the homicide, by weapon, and the race and sex of the offender, also by weapon. In each case the patterns are closely similar; Zimring concludes that the data support the view that similarly motivated attackers used guns and knives in comparable homicide situations. Most notably, 80 per cent of gun killings and 80 per cent of knife killings occurred in altercations; and guns were used by 60 per cent of Negro male killers and 59 per cent of white male killers.

The focus now switches to the two most common murder weapons, guns and knives. Zimring tabulates the 1965-67 figures for fatal and non-fatal attacks reported to the police. In so doing,

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he notes the possibility that there may be some under-reporting of serious but non-fatal knife attacks, more so probably than of serious but non-fatal gun attacks.

Table 10.4
FATALITY RATES FROM GUN AND KNIFE ATTACKS
ALL SERIOUS REPORTED ATTACKS AND HOMICIDES
CHICAGO 1965-67

	Non-fatal	Fatal	% Fatal
1965			
Knives	5285	104	1.9
Guns	1298	195	13.1
1966			
Knives	5230	152	2.8
Guns	1873	265	12.4
1967			
Knives	5612	135	2.4
Guns	2412	317	11.6
TOTAL			
Knives	16127	391	2.4
Guns	5583	777	12.2

It can readily be seen that gun attacks *prima facie* are five times more dangerous (i.e. 12.2:2.4) than knife attacks.

It could still, perhaps, be argued that gun attacks may be more in earnest than knife attacks, so that one is not comparing like with like. One is thrust once more into the realm of subjectivity, dealing with material which in the final analysis is unprovable one way or the other. However, Zimring tries to meet this argument by inference from the objective data. These relate to the location of the most serious wound and whether the attack caused single or multiple wounds. Characterizing attacks to the chest, abdomen, head, back and shoulders as serious, Zimring shows that more non-fatal knife attacks than non-fatal gun attacks fell into this category: 70 per cent as against 56 per cent. In addition, whilst 46 per cent of non-fatal knife attacks to serious areas were multiple, only 16 per cent of such gun attacks fell into this category. Leaning against any

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temptation to exaggerate the seriousness of knife attacks, Zimring further refines his data by characterizing single slash wounds (as opposed to single puncture wounds) to serious areas as non-serious attacks. The data nevertheless support three propositions:

- (i) that not all gun attacks can *per se* be considered attacks in earnest, carried out with homicidal intent;
- (ii) that a substantial proportion of knife attacks reported to the police do appear to be attacks in earnest;
- (iii) that the percentages of attacks in earnest with guns and with knives are almost identical.

His conclusions are restrained but cogent:

If it is assumed that only those wounds inflicted by knives in serious area locations that resulted in police-reported puncture wounds can be presumptively considered attacks in earnest, but that every gunshot attack reported is an attack in earnest . . . , the death-rate per 100 attacks in earnest by guns would still be two and one-half times that of the death rate per 100 attacks in earnest by knives.

Certainly, more reasonable use of these data would involve a substantially smaller number of asymmetrical assumptions. If the comparison is between knife puncture wounds in serious areas and gun wounds in serious areas, guns exhibit a death rate five times greater than knives.⁷

Because of the gun-control thrust of Zimring's findings, his article has attracted strong criticism. Greenwood, for example, attempted to hoist Zimring with his own petard by referring to the logical implications of this manner of measuring dangerousness.⁸ Citing earlier work by Benenson,⁹ he argued that if it is correct to say that guns are more dangerous than knives it is likewise correct to argue that an assault with bare hands is 50 per cent more dangerous than one with a blunt instrument. The basis of this argument was that 1.5 per cent of 59 547 attacks with bare hands in 1968 resulted in death whereas only 1.0 per cent of 52 213 attacks with blunt instruments brought about that result. Yet there is, surely, nothing inherently ridiculous about such a conclusion; if a measure of attacks in earnest could be consistently applied in such cases and if the sex distribution of attackers and victims could be controlled, it might well be found that the types of situation were not truly comparable. One cannot *know* this, of course; but at least Zimring

has tried to control the variables in gun and knife attacks, something his critic does not do.

Another protagonist, Murray, takes a more complicated approach.¹⁰ He constructs a United States-wide scale of gun-control laws, and for each State adds to this numerous other predictors of violence, such as population density, racial distribution, per cent unemployed, sex ratio, poverty, educational attainments, etc. Applying standardized regression coefficients, he reaches the conclusion that gun-control laws are not a significant indicator of gun violence in a community.

There are numerous defects in this work. A fundamental one is that it is naive to equate gun-control laws with gun availability; in the United States, there is much interstate movement of firearms. It is indeed precisely for this reason that the various federal laws in this area have not been successful.¹¹ Another objection to Murray's work is that it is too generalized, abstract and artificial; he is playing an intellectual game. As Zeisel has pointed out, 'Applied to non-experimental data, regression analysis is not naturally a robust instrument.'¹² The strength of Zimring's work is that it relates to real situations in a tangible context, whereas Murray is concerned with a statistical model applied indiscriminately across a massive population.¹³

Hardy and Stompoly¹⁴ make somewhat more telling points. After rehearsing, tautologously, the old familiar point that if a person takes up a gun at all and uses it against someone else he *must* intend to do more than merely injure the victim,¹⁵ they assert:

Zimring's third argument, that victims of assault and homicide are similar in terms of race and sex also does little to establish that the difference between a homicide and an assault is a matter of chance. It seems equally probable that these similarities reflect the distribution of crime in general, and violent crime in particular, among the population, rather than establishing any unique relationship between homicide and assault.¹⁶

They continue their argument by looking at other studies of the circumstances surrounding homicide and assault. These seem to show that there are significant differences between the two offences as to sex of victims, place of attack and age of offenders. The authors conclude:

Homicide offenders and assault offenders thus appear to differ in several material respects, tending to indicate that homicide and assault are not necessarily different products of the same motivation acting upon the same offenders.¹⁷

These are the strongest points yet made in the attack upon Zimring's works. They certainly raise some doubts about the accuracy of attributing intent in the ways Zimring had to rely on and the appropriateness of treating homicide and assault as a continuum. However, Zimring has never claimed that his work is cast-iron in this respect. His study remains the only one carried out in such detail; none of his critics have ever produced a comparable study showing conflicting results; and the patterns he brought to light are so marked that, whilst they might have to be modified by degree with fuller information, it is improbable that their general thrust would be invalidated. The overall assertion made by Hardy and Stompoly—that Zimring's work 'cannot be used to conclude that one weapon is more likely to kill than another'¹⁸—is overstated.

In Australia, the New South Wales Bureau of Crime Statistics and Research replicated Zimring's work with regard to homicide and serious assault occurring in the State during 1972.¹⁹ In 80 per cent of homicides the killer and the victim were involved in a pre-existing relationship—spouses, lovers, other family members, neighbours, etc. In nearly 70 per cent of such cases an altercation was the triggering event for the fatal incident. Alcohol had reduced the inhibitions of 70 per cent of all killers.

Comparing homicides to serious assaults and attempting to control for variables in exactly the same way as did Zimring, the bureau's researchers concluded that a gun is at least three times more dangerous than the next most dangerous weapon, a knife.²⁰ Of course, the New South Wales sample was much smaller (82 homicides and 295 non-fatal serious assaults), but the study nevertheless provides striking support for the general thrust of Zimring's work. However, as the methodology was identical, it does not secure the Chicago study further from the sorts of criticism which have been described above.

One interesting disparity should be noted. In New South Wales, the use of a handgun was relatively exceptional (4 per cent of all gun attacks) whereas in Chicago handguns were the most common firearm used in attacks. This obviously reflects the disparate gun-ownership patterns in the two countries. It also explains why Zim-

ring's work in this area has subsequently sharpened into a concern with *handgun* use in violent crime, rather than gun use generally. If the crude answer to his 1968 question, Is gun control likely to reduce violent killing?, were 'Yes', his answer a decade later would be a less simplistic one—'Yes; particularly handgun control, and even more particularly control of large calibre and new handguns.' This answer would be reached by the following steps.

First, a nine-year study of homicide in Chicago²¹ revealed an increase of 115 per cent (from 397 in 1965 to 854 in 1973) in the annual number of homicides. Gun killings had, during the same period, increased from 50 per cent (197) to 71 per cent (608). Thus, virtually all the absolute increase in homicide generally was attributable to the increase in gun killings. In turn, most of this increase coincided with an increase in handgun killings.

A change had also occurred in the circumstances surrounding the killings. Whilst at the beginning of the period 76 per cent of the killings involved parties already known to each other, the figure was only 64 per cent at the end of the period. This change was due to an increase in robbery murders—from 33 in 1965 to 162 in 1973. By 1973 there was thus one robbery homicide for every four non-robbery homicides, whereas in 1965 the proportion had been one to twelve. Overwhelmingly, handguns were involved in robbery homicides.

Second, Zimring analysed 1115 gun attacks, causing 156 deaths, in Chicago in a four-month period of 1970. When controlled for area of wound, multiple or single wound and general surrounding circumstances (domestic, altercation, etc.), it could be seen that attacks with a .38 calibre handgun were more than twice as deadly as attacks with a .22 handgun.²² Such a finding obviously fortifies Zimring's earlier works; even those of his critics who would argue that use of a gun at all ipso facto indicates a murderous intent would surely stop short of arguing that use of a .38 indicates an even more murderous intent than use of a smaller calibre weapon. Obviously, the outcome of an attack is to some extent fortuitous. Zimring thus concludes: 'The criminal law of violence may be artificially separated into fatal and non-fatal containers that hold the same behavioural brew.'²³

Finally, a project was undertaken to trace handguns seized by police in eight United States cities in the period July to October 1974.²⁴ Broadly speaking, some 50 per cent of all such guns were

less than five years old. Moreover, in all eight cities there typically occurred a year to year decline in the percentage of confiscated guns—more one-year-old guns than two-year-old, more two-year-old than three-year-old, etc. The work is quite complex, but Zimring tentatively concludes that an increase or decrease of, say, 50 per cent in the rate at which new handguns are annually introduced into the United States gun inventory would bring about 'an increase or decrease in gun-related crime much greater than the percentage change in total handgun inventory'.²⁵ This is because 'new guns flow more quickly into street circulation than older guns—in other words, new handgun markets, legitimate and illegitimate, are more efficient than recycling mechanisms such as private party sales of older guns and theft from individual owners'.²⁶

This conclusion is, perhaps, the least cogent of Zimring's various findings, for he does not consider the possibility that recycling mechanisms could become more efficient in response to a reduction in the supply of new guns. Nevertheless, it is a most interesting observation—one which should certainly fortify the determination of Australian law-makers and gun-licensing authorities to keep the influx of new handguns onto the domestic market down to the low current levels.

No work comparable to these last three studies has been done in Australia. One should always be wary of transposing overseas findings uncritically onto the differing conditions of one's own society. Nevertheless, if they are well-constructed and coherently argued, one should be equally wary of ignoring them. Australia should be prepared for a possible increase in the level of robbery homicide²⁷ and should, of course, do what it can to head it off; it should continue to be restrictive of handgun ownership generally; and it should be particularly restrictive of large-calibre handgun ownership.

Recent information about gun homicides and gun assaults in Australia is fragmentary. However, as far as one can tell, the situation is not unduly alarming. The 1975 study by the New South Wales Bureau of Crime Statistics and Research of murder in the State, 1973-74, showed, for example, that there were 39 gun murders. This amounts to the low rate of 0.85 per 100 000 inhabitants. The types of firearm used in all gun attacks (76) were predominantly rifles (73.4 per cent) and shotguns (22.4 per cent); handguns featured in only 3 cases (3.9 per cent). This weapon

distribution broadly reflects State gun-ownership patterns²⁸—a fact which itself tends to support the view that the bulk of such attacks is random and unplanned. Further evidence for this was found in the fact that firearms use was more common in those parts of the State where there is greater gun availability;²⁹ thus, in Sydney there were 1.38 gun assaults per 100 000 inhabitants whilst in the rural areas the comparable rate was 3.0 per 100 000.

Murder figures in Australian jurisdictions in 1976/77 and 1977/78 were also fairly satisfactory.

Table 10.5

MURDERS AND GUN MURDERS
AUSTRALIA 1976-78

	1976/77		1977/78	
	Total murders	Gun murders	Total murders	Gun murders
N.S.W.*	89	36	96	28
Victoria*	66	34	51	23
Queensland	47	†	36	†
S. Australia	28	15	36	12
W. Australia	26	3	16	—
Tasmania	8	4	5	2
N.T.	11	4	7	1
A.C.T.	2	—	2	—
TOTAL (excluding Queensland)	230	95 (41.3%)	213	66 (31.0%)

* Figures relate to the calendar years 1976 and 1977.

† Not known.

It can thus be seen that, for those jurisdictions where the gun-homicide component of the overall homicide rate is available, 36.1 per cent of all murders in the two-year period were committed with a firearm. This relatively low percentage is certainly a contributing factor to the reasonably low overall homicide rate of 1.9 per 100 000.

Nevertheless, it should be noted that in England and Wales, where the overall homicide rate for the three-year period beginning

January 1976 was just under 1.0 per 100 000, only 7.2 per cent of all homicides are committed with a firearm. The two factors exist, then, in tandem—a low homicide rate and a low gun-homicide rate, and for Australia a slightly higher rate and a much higher gun-homicide rate. By the same token, the 1975 United States homicide rate was an alarming 10.9 per 100 000; two-thirds of the 20 500 murders were committed with guns. It should be added that three-quarters of these were handguns.

The moral is insistent. The greater the number of guns which are available in a community, the more frequently they will be used in personal violence situations. Opinions may differ on whether cause and effect have been satisfactorily established, on whether dangerousness can be adequately measured, on whether the variables present in diverse and dynamic human situations can be satisfactorily controlled for the purposes of analysis. But the stark fact remains that, for societies deriving from the British tradition and at about the same stage of civilization and development, gun availability seems to be associated with gun violence. It would be a brave person who denies that there is a link; and the onus is certainly upon such a person to prove his point. In my view, no one has yet done so.

For Australia the message is unmistakable. The gun inventory should be permitted to increase only with the greatest circumspection and, in particular, the handgun inventory should be held at the minimum.

11

FIREARMS USE IN ROBBERY

The overall robbery rate in Australia should not be regarded as unduly alarming, as the following table indicates.

Table 11.1

ROBBERY RATES PER 10,000 IN AUSTRALIA, ENGLAND AND WALES, AND THE UNITED STATES

	Number	Rate per 10 000
Australia		
1976/77	2356	1.67
1977/78	2791	1.97
England and Wales		
1976	11 611	2.36
1977	13 730	2.78
1978	13 150	2.65
United States		
1975	464 970	21.82
1976	420 214	19.58
1977	404 850	18.71

On the other hand, the picture is a little less reassuring when fire-arms robbery only is considered. The Australian rate exceeds the British one, though it remains of course trivial by United States standards (see Table 11.2).

Robbery, as is well-known, is a big-city offence. For example, the Sydney rate is approximately three times that of the overall

Firearms Use in Robbery

Table 11.2

USE OF FIREARMS IN ROBBERY IN AUSTRALIA, ENGLAND AND WALES AND THE UNITED STATES

	% of robberies committed with firearms	Rate of firearms robberies per 10 000 population
Australia		
1976/77	34.2	0.57
1977/78	36.3	0.72
England and Wales		
1976	9.2	0.22
1977	9.0	0.25
1978	7.6	0.20
United States		
1975	44.8	9.78
1976	42.7	8.36
1977	41.6	7.78

Australian rate, just as the London rate is about four times the rate for the whole of England and Wales. Even more markedly, fire-arms robbery is a big-city phenomenon. The most recent Australian data relating to Sydney and the rest of New South Wales are those for 1974; it was collected by the Bureau of Crime Statistics and Research.¹

Table 11.3

ROBBERY INVOLVING THE USE OF FIREARMS
N.S.W. 1974

	Number	Rate per 10 000
Sydney	223	0.79
Rest of State	16	0.09

The Sydney rate can thus be seen to be almost nine times greater than the rate for the rest of the State. General gun availability is evidently not material to the incidence of firearms robbery, for as

has been shown,² the general level of firearms ownership is much lower for Sydney than in the remainder of New South Wales.

Robbery situations are tense and volatile; one would accordingly expect that the more often firearms are used, the greater the number of injuries or fatalities that will be caused to victims or persons present at the scene. United States experience confirms this expectation. Up until 1975 the percentage of robbery killings steadily increased, peaking at a figure of just over 3000. More recently, the figure seems to have fallen back to about 2500 as both the robbery rate and the general homicide rate have fallen back a little.³ British statistics are not published in such a way as to enable such figures to be directly calculated, but it seems certain that the number of killings in the course of firearms robbery is less than 1 per cent of the United States figure. In Australia, there were three robbery killings in 1976/77 and nine in 1977/78; eleven of these twelve involved the use of firearms.

The firearms robbery component of the Australian robbery rate is already fairly high: see Table 11.2. It is not a fanciful possibility that

- (a) the overall robbery rate will increase;
- (b) the firearms robbery component of that increasing overall rate will also increase;
- (c) the number of robbery killings will increase, because of the interaction of factors (a) and (b).

This foreboding is based on American experience, but it is, of course, far from inevitable. Australian patterns may develop in a manner more akin to British experience, where recently the increase in the robbery rate has been modest and the firearms-robbery rate has mirrored the overall rate.⁴ Much, therefore, will depend on intangible and unpredictable social factors. However, let us consider some of the more tangible factors that could be at work.

First, will robbery increase? There are factors that suggest it may do so. City robbery rates are the main influence upon overall rates; Australia's two largest cities at present have rates which are very low by comparison with cities of comparable size. A survey based on 1971 data⁵ showed Sydney with a lower rate than any of ten North American cities of a comparable size (Table 11.4).

Since 1971 the robbery rates have remained high in these eight United States cities, with a tendency for those at the top of the scale

Table 11.4
COMPARATIVE REPORTED ROBBERY RATES, 1971

City	Population (million)	Rate per 10 000
Washington, D.C.	2.9	51.0
Baltimore	2.1	49.7
San Francisco	3.1	40.3
Cleveland	2.1	31.9
St Louis	2.4	26.6
Houston	2.0	26.4
Boston	3.4	18.6
Pittsburgh	2.4	14.8
Montreal	2.6	13.0
Toronto	2.3	5.7
Sydney*	2.8	4.8

* No figure was available for Melbourne, but its rate is generally about the same as Sydney's or even a little lower.

to fall back a little and those at the bottom to creep up. The 1971 figures can thus be seen, by 1977, to show an enduring trend.⁶ The point of this is not to assert that, in some predetermined way, Sydney's rate must climb to that of Washington or even Pittsburgh. There are important cultural differences between Australia and North America, and demographic and social disparities between Sydney and most of the eight United States cities. It would be folly to seek to transpose foreign patterns on to Sydney, simply on the basis of population size. Nevertheless, the 'global village' is more than a clever catch-cry; the development of social trends in one part of the world does tend to have a more direct and immediate impact upon social trends in other parts of the world than was the case a century ago. It would not be astonishing if some of the 'leeway' in Australia's robbery rate started to be made up in the next decade or so.

Another factor at work—one documented best with regard to Vancouver⁷ but, as a matter of common impression, likely soon to be no less valid for Australian cities—is that it is becoming more difficult to be a successful burglar. More precisely, commercial burglary—where the rewards are generally greater—is becoming

more difficult. Security and alarm systems, mechanical and manned, have improved immensely in the last decade; businesses now seem more willing to invest in them. Moreover, the switch from cash to credit systems continues apace. The skills of the safe-cracker are hardly less redundant than those of the bell-hanger or the blacksmith. The burglary of business establishments is 'giving way to armed robbery. In the criminal as in the conventional context, the long-run merit of technological process is questionable.'⁸ Burglars who specialize in private premises will not, in Australia, be under the same pressures to switch to robbery, for their targets are still generally less well secured. However, even this could eventually come to pass, with violent mugging picking up some of the shortfall in surreptitious burglary opportunities.

This brings one to the second point, that the firearms-robbery component of the overall rate may well increase. A recent American study, relating to a sample of robberies which occurred in 1974, showed that firearms use is much more frequent in commercial than in private robbery—i.e., in the likely growth area of robbery.⁹

Table 11.5

WEAPON USE IN COMMERCIAL AND PERSONAL ROBBERIES
U.S. SAMPLE 1974

Weapon	Personal %	Commercial %
Gun	19.4	64.1
Knife	16.5	9.5
Other	10.4	5.0
None	53.7	21.4
	N = 1023	N = 421

The first major study of armed robbery available in Australia does not analyse its data in quite this way.¹⁰ It lumps personal and commercial robbery together for the purpose of firearms use; where the robber was armed with a weapon at all, it was predominantly with a firearm (58.9 per cent in Victoria, 60.3 per cent in New South Wales). But it does not tell us whether the arming patterns were different for the two kinds of robbery.

However, if a breakdown of robbery by type and by weapon

were able to be made, it seems quite likely that it would reflect broadly the United States trend. This view arises out of a functional analysis of the role of weapons in robbery. Firearms are best adapted to managing victims or other persons present at the scene without coming into propinquity with them, also to controlling several persons at once, and finally to creating a little extra 'get-away' time. Each of these factors is more likely to be advantageous in commercial than in personal robbery. Indeed, without a firearm as a work-tool, a competent robber or team of robbers would be extremely reluctant to select certain targets, such as banks or armoured cars, at all. As Skogan points out: 'Having more firepower available enables miscreants to choose targets with more impunity, to select desirable victims, and to discount their conventional forms of resistance or retreat.'¹¹ Lettkemann argues that victim-management is the key to successful commercial robbery, and 'the establishment of authority is no doubt enhanced by the display and use of weapons'.¹² It is dubious whether the bookies at Tattersall's Club, Melbourne, would have parted with their proceeds quite so readily if they had thought they had a fighting chance of retaining it by creating a melee on almost equal terms with Jockey Smith and his gang.

In personal robberies, however, the very choice of victims—predominantly the weak or the elderly—and the selection of the time—for the most part, in darkness—tends to make the need for firearms less crucial from the offender's point of view.¹³ That is not to say that, if firearms are readily available, they will not frequently be used, even in situations where they are in a sense an unnecessary luxury.¹⁴ Block, in his nine-year study of Chicago homicide rates, found that more than half of the increase in robbery homicides related to older blacks (i.e. aged twenty-five or more) and that three-quarters of these victims were killed by firearms.¹⁵ Zimring found, more specifically, that a trend seemed to be developing for robbers to carry and actually fire guns even when there was no functional need to do so.¹⁶

The most recent Australian data, collected by the South Australian Office of Crime Statistics,¹⁷ fortifies, at least for that State, these two prognostications. Robbery patterns for the years 1975-79 were as in Table 11.6.

If the use of firearms as a weapon in armed robbery, particularly commercial robbery, were to increase throughout Australia as a

Table 11.6

ROBBERY IN SOUTH AUSTRALIA, 1975-79

	1975/76	1976/77	1977/78	1978/79
All robberies	201	233	210	399
Number and percentage committed with firearms	26 (12.9%)	31 (14.3%)	47 (22.4%)	84 (21.1%)

percentage of all armed robbery, the third question would arise—namely, whether the frequency of robbery homicides would also increase. It is sometimes argued that firearms are in reality *less* dangerous than other weapons available for robbery. Greenwood, for example has stated:

Criminals have proved to us that firearms controls will not deny their small class of people access to firearms whenever they want them, but even if it were possible to deny them their guns, little would have been achieved if they simply turned to other weapons such as coshes, ammonia sprays and the like *which in fact cause more injuries than firearms.*¹⁸

But if this is so, it does not indicate that coshes etc. are more 'dangerous' than guns. What it shows, surely, is that weapons which are less compelling psychologically are more likely to have to be actually used; victim management cannot so readily be achieved by mere threat of force. Australian data, set out in Table 11.7, tend to support this perception.

There is an apparent oddity in the figures in that table, inasmuch as blunt instruments, physical force and other unspecified means of attack were actually used more often than they constituted the initial threat. Presumably, the offender decided in such cases, when threat alone did not suffice, not to use some more menacing weapon upon which he had initially relied. However, this point remains speculative, never being explained in the report. One thing which does emerge, however, is that in three-quarters of the cases in the sample (856/1182) no attack was made at all; the threat evidently sufficed.

It can also be seen that knives are actually used, as a percentage of the occasions on which they constitute the initial threat, about

Table 11.7

INITIAL MEANS OF THREAT AND SUBSEQUENT USE OF FORCE IN ROBBERY
VICTORIA 1975* AND NEW SOUTH WALES 1975 AND 1976

	Victoria 1975	N.S.W. 1975	N.S.W. 1976
Firearm			
initial threat	159	250	273
used	14	11	7
Knife			
initial threat	118	117	168
used	11	6	25
Blunt instrument			
initial threat	15	20	43
used	42	22	56
Physical force			
initial threat	2	2	7
used	14	35	58
Other threat	1	7	—
Other means of attack	10	15	—

* The 1976 Victoria figures included in the report of the N.S.W. Bureau were so fragmentary that it is considered preferable to omit them altogether.

twice as often as guns. This confirms one's expectation that the greater the operational advantage the selected weapon gives the robber, the less likely it is that he will use it.

Table 11.8

GUNS AND KNIVES AS INITIAL THREAT IN ROBBERY—
PERCENTAGE OF OCCASIONS WHEN ACTUALLY USED

	Victoria 1975	N.S.W. 1975	N.S.W. 1976	Total
Gun	8.8	4.4	2.6	4.7
Knife	9.3	5.1	14.9	10.4

When an attack was actually carried out, injuries necessitating hospital treatment were inflicted on 114 occasions (35 per cent of attacks); in addition six victims were killed. The data were not presented in such a way as to enable one to identify what sort of attack resulted in death or injury. However, the 1977 and 1978 data, referred to above,¹⁹ indicated that eleven out of twelve robbery killings were caused by firearms use; it would be surprising if the 1975/76 patterns were substantially different.²⁰

The Australian data, in leaving certain important cross-tabulations undone, are not, then, entirely satisfactory. Nevertheless, they seem to offer some support for conclusions comparable to those reached by Skogan with regard to his United States sample of robberies:

The survey data indicated that the use of force increased steadily with a decline in the lethality of weapons employed in robbery. When weapons were not employed in an incident, force was used in fully two-thirds of such robberies, while that proportion declined to 25% among crimes involving guns.

The declining rate of resistance and the less frequent use of force in crimes involving more lethal weapons is reflected in the seemingly curious finding that the use of less lethal weapons seems to lead to more frequent injury. Those faced with firearms were least frequently injured, while other weapons (rocks, clubs, bottles) were the most dangerous. This is doubtless because, while capable of inflicting injury, they are the least credible of all weapons. More lethal weapons, on the other hand, enable robbers to *avoid* the use of violence under many circumstances.²¹

That being so, the question can be posed somewhat differently: given that guns, when selected as a means of threat in robbery, are likely to be actually used less often than less lethal weapons, is the degree of harm which they will cause when actually used likely to be greater than with any other weapon? This question is qualitative, therefore, as well as quantitative; Greenwood, *inter alia*, has treated it as if it were merely quantitative. Bearing in mind the arguments traversed in the chapter on homicide, one would expect the answer to be a firm 'Yes'; and if American experience is any guide, this is in fact the case.

Block's study of the increase in Chicago's homicide rate over the period 1965-73 showed that a significant part of that increase was due to an increase in robbery murders.²² Zimring subsequently

made a more cogent analysis of Detroit data—more cogent because it concentrated solely on robbery and because that city had been collecting weapon-specific robbery data since 1962, thus enabling a thirteen-year period to be studied. The annual number of robberies had increased fourfold during that time, whilst the annual number of robbery killings had increased ninefold (from 15 to 135). As can be seen from Table 11.9, the death rate per 1000 robberies was twice as high at the end of the period as at the beginning. The 1962-63 death rate, applied to the 1974 robbery volume, would have resulted in sixty-nine robbery killings; the 1974 death-rate, applied to the 1962-63 volume of robberies, would have resulted in thirty-four killings. 'The explosive growth in robbery-killing is thus a function of the interaction between increases in the death-rate and robbery volume.'²³

Weapon-specific death rates show some complex trends during the period.²⁴ In summary, however, one can say that the gun-robbery death rate is constantly the highest, really taking off in 1970-71 and peaking at 13.5 per 1000 in 1973. However, death rates from knives and from other weapons are not far behind, and they too take off in the early seventies. Looking at the figures for 1972—a touchstone year—Zimring concludes that, on the basis of police-reported data, gun robberies are 1.3 times more deadly than knife robberies. 'The reported death-rate from gun-robbery is higher than that for other weapons, but not as substantial as other data on the correlation between gun-use and the total death-rate would suggest.'²⁵

However, victim surveys in Detroit had indicated, for the period under review, sustained trends of under-reporting of knife robberies, robberies with other weapons and no-weapon robberies.²⁶ Taking this into account, Zimring concludes that gun robberies are, in reality, more deadly than knife robberies by a factor of 2.1, than other weapon robberies by 2.8, and than no-weapon robberies by 11.1.²⁷ He goes on to show that 'the correlation between percent of total robberies involving a gun and robbery death rates was .68 (significant at $p < .01$), suggesting a high correlation between total robbery death-rates and the percentage of all robberies attributable to guns.'²⁸ No similar correlation exists between total robbery death rates and the use of knives or other weapons in robbery.

In addition, Zimring suggests that there is evidence from his study that firearms availability and use increases general robbery

Table 11.9
ROBBERIES BY WEAPON AND DEATH RATE FROM ROBBERY
DETROIT 1962-74

	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	% change 1962-74
Gun	836	956	897	1131	2299	2965	4281	6140	9227	8230	7155	6873	8755	947
Knife	846	865	858	1123	1746	2146	2214	2693	3050	2646	2310	2061	2532	199
Other weapon	376	543	829	856	1426	1864	2060	765	774	819	782	871	1158	208
No weapon	2162	2258	2166	2404	3657	5024	5262	7864	10046	9125	7007	6574	7896	265
TOTAL	4220	4622	4750	5514	9127	11999	13817	17462	23097	20820	17254	16379	20341	382
Death rate per 1000 reported robberies	3.7	3.1	2.5	3.0	2.9	2.4	3.4	3.5	3.0	3.7	5.1	8.2	7.6	
Number of robbery killings	15	14	12	17	26	29	47	61	69	77	88	134	155	933

rates, though 'it is a preliminary indication at best'.²⁹ There is also some disturbing evidence that the point is approaching where use of the most deadly weapon is no longer producing the desirable strategic effect that it is less likely actually to be used. The gun-robbery death rate seems to be higher than would be fully explicable if a gun were only used when the robber's own physical security or his ability to make a successful getaway were at risk; in Detroit, at any rate, there could be developing a trend where robbery is no longer exclusively an instrumental crime committed for gain. Skogan's work does not support this conclusion;³⁰ but it relates to a smaller and yet more widespread sample than that analysed by Zimring. Certainly, it would be no great surprise to some sociologists and psychologists if Zimring's fears were proved to be correct.³¹

To summarize, then, there is some real basis for fearing that Australia's overall robbery rate could increase measurably over the next decade or so. Also, there will be pressures, notably job facilitation, that could lead to a greater proportion of all robberies being gun robberies. These pressures are likely to be strongest in the area of commercial robberies, though they will not be insignificant in relation to personal robberies. If gun use does increase, it is almost certain that there will be more robbery killings; this may not be merely in absolute terms but also, perhaps, as a percentage of all gun robberies.

What should be done in response to these prognostications? Initially—because they will not inexorably and inevitably occur—not a great deal. The first priority is to collect data in such a way that the development of robbery patterns can be accurately charted; as the New South Wales Bureau of Crime Statistics and Research has pointed out, 'the level of data collection and reporting . . . with respect to armed robbery could be greatly improved'.³² If this were done, it would enable the modus operandi of the various types of robbery to be analysed, with preventive implications possibly emerging.

In addition, there is a need for new types of research to be carried out. For example, it would be interesting, whenever a firearms robbery was cleared up, to run a trace of the gun involved in an attempt to identify its source. My own expectation is that, insofar as guns used in 'professional' or gang robberies of a commercial type are concerned, it would be found that the firearm was acquired despite the applicable licensing system, that further safe-

guards or restrictions would have been futile. However, it is possible that at the less 'professional' end of the robbery spectrum—street robbery of private persons—some firearms may have become available to the offender through the licensing system. If so, this might in turn point the way to some beneficial fine tuning for the system. Until a properly constructed piece of research is carried out, however, expectations such as these will remain speculative.

Another area for research—one which, again, could only be carried out in relation to offenders who have been caught and convicted—concerns the decision-making processes of robbers. What governs the choice of weapon, if a firearm was chosen did this affect the composition of the team, would fears as to greater penalties for firearms robbery operate as a marginal deterrent? Police authorities would very likely be interested in the findings of any such research.³³ Conclusions from such an inquiry would necessarily be somewhat impressionistic. But the more that is known about the socio-pathology of one of the most threatening types of crime facing society, the greater the chance that it can be handled constructively.

It is premature, in my view, to embrace fashionable technological 'solutions' to firearms robbery. The New South Wales Bureau, in its report, was far too impressed with the possible efficacy of melodramatic measures such as the fitting of bullet-resistant screens between taxi-drivers and their passengers and the installation of bullet-proof glass between bank-tellers and customers.³⁴ It is not simply that the current levels of such robbery does not justify measures which adversely affect the nature of such services, but that there is a real possibility that such measures may cause the level of violence used in such robberies to increase. It is naive to expect such targets to be eschewed altogether.

Research, then, is the primary need. While it is being carried out, the legitimately owned handgun inventory should be kept to its present low levels, and if possible reduced. This could have a marginal effect on the incidence of firearms robbery, as mentioned above, and can certainly do no harm. A corollary is that the stock of 'defence' handguns held in banks and other commercial premises should be dismantled, inasmuch as they have tended to become part of the stock of the robbers themselves and have had no utility in preventing robberies.³⁵

That, for the time being, should be the co-ordinated, Australia-

wide strategy—to monitor the whole phenomenon of robbery and to strive to keep the national handgun inventory very small and very secure.

THE USE OF FIREARMS BY POLICE

In the course of the last decade or so, an increasing proportion of Australian police have come to carry firearms more and more often in the course of their duty. Police authorities are generally reluctant to divulge a great deal about their practices in relation to the carrying of firearms, but so far as I have been able to ascertain they are now approximately as follows.¹

New South Wales: all police, except special constables, are armed with handguns whilst on duty.

Victoria: all detectives carry handguns whilst on duty; all uniformed men carry handguns whilst on patrol.

Queensland: following industrial action, police were permitted from 1973 to decide for themselves, individually, whether to wear handguns whilst on duty. This opening of the floodgates has resulted in a current situation which is very much akin to that prevailing in New South Wales.

Western Australia: detectives carry handguns whilst on duty; uniformed men carry handguns whilst on night patrol.

South Australia: detectives carry handguns whilst on duty if the task with which they are concerned is considered sufficiently serious; uniformed men do not normally carry handguns.

Tasmania: the practice resembles that in South Australia.

Australian Capital Territory: the practice is akin to that in Western Australia, and has not yet fallen in line with that of the contiguous State of New South Wales.

Northern Territory: the practice is akin to that of Queensland, but with even less command control inasmuch as personal, rather than police issue, firearms are not infrequently carried.²

Federal Police (formerly the Australian Police, before that the

Commonwealth Police): gun-carrying practice relates to functions, and as many of these are characterized as 'security' functions (e.g. airport patrol, V.I.P. protection) handguns are often carried.

This last point leads on to a general qualification which must be made with regard to all forces, namely that whenever 'special duties', of a security or anti-terrorist nature, are being carried out, it is the invariable practice for firearms to be carried. In addition, it is now a widespread practice in all jurisdictions for extra firearms (including, sometimes, shotguns) and various other kinds of anti-personnel hardware to be carried in patrol vehicles, particularly at night.

In summary, there is a firm trend, particularly marked during the last decade, for an increasing proportion of Australian police to carry arms on a wider range of occasions. One could, perhaps, say that if one met an Australian policeman on duty he is now rather more likely than not to be carrying a gun, or to be within quick and easy reach of one. By contrast, if one met an American policeman, one would be astonished if he were not armed; and if one met an English policeman one would be a little surprised, but by no means astonished, if he were armed. This is an imprecise measure but fairly, I believe, captures the essence of the evolving Australian patterns of police conduct.

Now, of course, the practice of carrying of firearms, whilst it may be hoped and intended that it will principally act as a prophylactic against criminal violence, will inevitably result in their actually being used from time to time. That being so, the question which arises is whether such use will subsequently be subjected to proper scrutiny to ascertain whether it was lawful. A related question is whether, in any case, Australian police forces are properly trained to use firearms prudently and lawfully.

As to the first question, one of the factors which may most bedevil police-public relations is the oppressive use of force. This factor will be exacerbated if it seems that the police may be the beneficiaries of some sort of 'cover-up' once possible abuse of power has occurred. This matter first caused me concern more than a decade ago, and in *Police Killings in Australia*,³ published in 1970, I documented what appeared to be systematic police misconduct in this area. However, before referring to that, and also to subsequent developments, one should first set out the general law. This is, of course, applicable to all use of force by police, howso-

ever inflicted; but is of particular practical relevance in this book, inasmuch as the overwhelming majority of police-inflicted fatalities arise out of the use of firearms.

The law applicable to the use of force in arrest depends on where in Australia the arrest is made. Disparities as between the various States and Territories are best understood by considering in turn 'confrontation' arrests and 'fugitive' arrests. The former involve direct physical resistance and the latter, flight.

In a confrontation arrest, the amount of force which at common law could lawfully be used was such as was reasonably necessary to make that arrest. Thus, if the person being arrested offered resistance (and there was a lawful occasion for arrest), the arrester could lawfully increase his force in proportion to the force of that resistance. The ultimate logic of this principle—that if the arrestee were killed in the ensuing struggle as a consequence of the arrester's use of reasonable force the killing should be justified—was accepted by the common law. That legal position is accepted by all Australian jurisdictions.⁴

However, the use of greater force than was reasonably necessary was unlawful. Although the matter is not entirely free from doubt, it does appear that the arrester had to accept the full criminal consequences of the use of such force, even to the point—if the appropriate intent could be established beyond reasonable doubt—of being criminally responsible for murder.⁵ In the Australian common law States (New South Wales, Victoria and South Australia) and in the Territories the full rigour of such an implication has now been modified by the doctrine of 'excessive defence'. This has been judicially defined as follows:

If the occasion warrants action in self-defence or for the prevention of felony or the apprehension of a felon, but the person taking action acts beyond the necessity of the occasion and kills the offender, the crime is manslaughter, not murder.⁶

Excessive defence is not recognized in the Code States, however.⁷

So far as fugitive arrests are concerned—and this is the area particularly, but not exclusively, relevant to police use of firearms in Australia—the common law provided that, if an arrestee sought to avoid arrest by flight, he could justifiably be killed so long as it was sought to arrest him for treason or felony and he could not be arrested within the immediate situation in any other way. The

rationale for this apparently harsh rule derived from the historical facts that all felonies and treasons were capital and that the means of subsequent apprehension of such offenders were manifestly crude and inefficient. Such extreme measures were not justifiable for misdemeanours, for these were not capital offences.⁸

In the common law States and the Territories, the principal rule is still the law, and indeed appears to have been extended somewhat.⁹ Thus, even if a man's identity is known and there is every reason positively to believe that he is not dangerous, he may be shot at in accordance with the fleeing felon rule, and if he is thereby killed the homicide is lawful. However, the Code States have moved a little distance away from this position. It is now provided that where a police officer seeks to arrest someone, and that person takes to flight, the police officer will only be justified in using force likely to cause death or grievous bodily harm when the arrest is for a crime punishable by death or by life imprisonment.¹⁰ This is, of course, a relatively restricted category of offences. Moreover, the common law prescription that there be no other way within the extant situation of making the arrest is given specific point by the Code requirement that such force may not be lawfully used 'until the person sought to be arrested has been called upon to surrender'.¹¹ With fugitive, as with confrontation, arrests, the doctrine of excessive defence, applicable in the common law States and the Territories, is not available in the Code States.

My own 1970 conclusions were that the above legal rules were being systematically circumvented. Defective administrative, coronial and legal procedures for investigating and evaluating the lawfulness of police use of lethal force had led to the creation of a position where such conduct was in effect extra-legal. 'If the trend of preventing the legality of a certain kind of situation from ever being tested is distinct and continuous enough, then in a real sense the law has come to be changed with regard to that situation. The law may remain on the Statute-book; but a privileged group will come to know that it is a paper law only, that no sanction will ever be brought to bear upon them for its "breach".'¹² In addition, it seemed then that the fleeing felon rule was harsh and anachronistic in many of its applications, and that its very existence encouraged police to characterize as fugitive situations incidents that truly were no such thing. It was, in other words, a tempting refuge in which the police could seek shelter if their use of firearms was not unequi-

vocally lawful. Police corruption and perjury were thus an endemic part of the rule.

A follow-up analysis of the continuing phenomenon of police use of lethal force, made in 1975, concluded that defects in the administrative, coronial and legal procedures were still considerable, though there seemed to have been some minor improvement.¹³ Undoubtedly, the widespread concern, which has manifested itself in the last decade, that the police are not appropriately vested with exclusive power to investigate their colleagues' alleged misconduct has had some salutary effect.¹⁴ However, it was also concluded that the fleeing felon rule had become no less oppressive and no more acceptable. This was exemplified by a case in which the victim, Terrence Lacco, was killed by Victoria police in August 1972.

Lacco was a drifter and a petty thief who had been making a nuisance of himself in the Mount Martha area for a year or so, breaking into holiday cottages, a caravan, a restaurant and a car and stealing various goods. Some of these offences had been positively attributed to him before his death; others were able to be so attributed subsequently. There can be no doubt, in other words, that he was a felon and that he was reasonably suspected of being a felon by the police involved in the events leading up to his death. By the same token, however, his *modus operandi* was extensively enough documented for the police to be absolutely confident that they were dealing with a man who had never been violent. Indeed, the thrust of much of the evidence at the inquest was to establish how adept Lacco was at keeping away from the police and, if seen, how fast at running away.

Six weeks or so before he was shot, Lacco had been found sleeping in a beach hut; he ran away whilst being arrested for being unlawfully on premises. The bedding he left behind him on that occasion was found to have been stolen. The day before he was killed Lacco was once more seen on the beach, by Senior Constable King and another policeman; when they tried to arrest him, he easily outdistanced them. The next day King had to make, whilst on duty, a journey past the area where Lacco had been seen. Before leaving the station he drew a pistol and six rounds of ammunition. This was 'in case I saw the suspect again. It was my intention that if I saw him the pistol could be used to threaten him to stop because he was such a fast runner.'¹⁵ Not because Lacco was dangerous or King was apprehensive for his own or anyone else's safety, but

because Lacco as a *fleeing* felon was in a class of his own. That the constable should consider his response to the problem an appropriate one is not so much a comment upon his own judgment as upon the social and policing context set by the legal rule.

Once the decision had been made to draw a pistol, the banal little tragedy inexorably worked itself out. King did in fact see Lacco, and called out to him, 'Come here.' Lacco threw a stolen transistor in King's direction, and took off towards the bush. King, assuming from previous experience that he would be outdistanced, did not really sprint in his pursuit, though he moved off in the same general direction. He called upon Lacco to stop, and when he did not do so fired two warning shots. But Lacco kept running. So King fired his third warning shot, intending it, he deposed, to scuff up the ground some six feet or so in front of Lacco, thereby persuading him, King hoped, to stop. Unfortunately, the bullet hit Lacco killing him. The range was about thirty-five yards; King himself had moved some fifteen yards in the course of the incident, and was still moving at the moment when he fired the fatal bullet.

At the inquest, a verdict of accidental death was returned. This was on the basis that, had King shot Lacco deliberately (and it was clearly established that he did not do so) it would have been justifiable within the fleeing felon rule, so that to shoot him inadvertently did not amount to criminal negligence. The standard of criminal negligence must, of course, be measured in the light of all the circumstances.

The principal legal rule thus led to an unnecessary death. Had the police chosen to deploy their manpower in an appropriate way, it would have been perfectly simple to apprehend Lacco without violence. No social need existed for the use of force, and no social utility came of it.

There were two other cases during the 1970-74 period—one in New South Wales and a second in Victoria—where fleeing felons were killed by inaccurately aimed warning shots. Although in each case the identity of the offender was not positively known to the police, there was nothing in the surrounding circumstances to suggest that he was armed or dangerous. Nor, in the event, did it so prove. Clearly, the existence of the fleeing felon rule creates a context in which there may be resort to firearms violence even though the social utility and the law enforcement necessity is highly dubious. It is time for this aspect of the law to be changed.

In this respect, the South Australian Criminal Law and Penal Methods Reform Committee has recommended that

the use of firearms be permitted only where it is reasonably necessary to protect life, or there is a reasonable apprehension of serious injury to a person.¹⁶

This echoes my own 1970 recommendation,¹⁷ and has in turn been endorsed by the Australia Law Reform Commission.¹⁸ It is also in accord with a Canadian interpretation of the common law position.¹⁹

Regardless of the strict legalities and the prospects of law reform, it is arguable that warning shots *per se* are undesirable from the point of view of efficient and effective law enforcement. An English authority on police firearms tactics, Greenwood, has stated:

bearing in mind that the bullet from a warning shot is likely to cause danger to persons other than the criminal and that the probability is that it will not be effective, it seems that firing warning shots as a matter of policy would be quite wrong and that such shots should not be fired unless there are very exceptional circumstances.²⁰

Certainly, a warning shot which misses the fugitive contains, from his point of view, an essential ambiguity: was it an unsuccessful attempt to hit him or is it a sign of the reluctance of the police to shoot at him? In either event, his determination to escape may be strengthened.²¹ Mindful of such considerations as these, the South Australian Committee reached a conclusion comparable to Greenwood's.²²

The whole matter of police training in the use of firearms also arises from the Lacco case. If one accepts, for the sake of argument, the propriety of firing warning shots, then it is obviously desirable that they be aimed as accurately as possible in the direction in which it is intended to fire them and that that direction be as safe as is reconcilable with the need to make it clear to the fugitive that it is indeed a *warning* shot which is being fired. One could, therefore, deduce two simple prohibitions, which may perhaps give way to particular circumstances but which nevertheless provide guidelines whereby the balance of purposes inherent in firing warning shots at all may be preserved. These are:

1. Do not fire whilst running;
2. Do not fire so as to just miss the person being warned.

Three other prohibitions, arising out of the actual past conduct of Australian police, are:

3. Do not fire from a moving car;
4. Do not fire at close quarters or in a confined place;
5. Do not fire in a dark place.

All Australian police forces seem to breach these simple prohibitions from time to time, but it is the Victorian force whose practices have given rise to the most concern. Two actual cases will capture the flavour.

In the first, a man armed with a scythe had gone berserk, though he had not injured anyone. The police who were called to the house trapped him in an internal passageway; one policeman was behind him and one in front. The policeman behind him called upon him to drop the scythe, and when he did not comply at once he fired a warning shot into the ceiling and another into the floor. The latter ricocheted, hitting the other policeman in the arm. At that very moment, he had been taking aim to shoot the offender in the arm, to disable him. His aim was disturbed, and the shot which he fired hit the victim in the chest, killing him.²³

In the second case, three police cars and their crews became involved in chasing a car-load of felons who had been surprised in the course of breaking and entering. During the chase, warning shots were fired from one of the police vehicles whilst it was moving at high speed. Eventually, the felons' car crashed; and as the chase took to foot, a policeman fired in the general direction of the felons. It was dark, a fact which made firing at all rather risky; on this occasion, the riskiness was exacerbated by the fact that the policeman who fired the shot suffered from defective night vision. (The mind boggles at the criteria which command officers in the Victoria Police Force must have followed at that time in assigning men for various sorts of duties.) His shot hit and killed another policeman.²⁴

Not surprisingly, the evidence which has emerged suggests that police firearms training leaves much to be desired. As one would expect, Victoria seems to be the worst; but one can surmise that a police force, such as that of the Northern Territory, which leaves its

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men to arm themselves and another, Queensland, which permits its men to decide for themselves whether they wish to carry firearms, will be little better. Greenwood has said that:

Reasonable firearms training cannot be completed without the firing of from 500 to 1500 rounds in basic training. Retraining should involve not less than 200 rounds per year, with psychological preparation—the instilling of a proper attitude towards police use of firearms—being an integral element in both initial and continuation training.²⁵

The theoretical position in most of those Australian forces which address themselves to this issue is that thirty rounds per year should be fired on the range. It is apparent that this (already inadequate) prescription is not being met. Indeed, a remarkable survey of its members undertaken by the Victoria Police Association confirms, from a perhaps unexpected source, that the crisis in police firearms training is, if anything, even worse than I myself have previously suggested.²⁶

In early 1978 individual police were asked a series of questions about the firearms training which they had received. There were 2313 responses, presented below in percentage terms.

Q. *When was the last time you attended police practice organized by the Department?*

Within 3 months	3-6 months	7-12 months	1-2 years	2-3 years	more than 3 years ago
4%	12%	19%	22%	16%	28%

Q. *How many shots did you fire at the last practice session you attended?*

20 or less	21-30	30 +	Not known
71%	21%	5%	3%

Q. *Was the instruction received adequate?*

Yes	No
26%	74%

Q. *Is the weapon you normally carry in the course of your duty a suitable weapon?*

Yes	No
30%	70%

Police Use of Firearms

Q. *Have you ever received Departmental instruction in the use and maintenance of the weapon that you normally carry in the course of your duty?*

Yes	No
89%	11%

Q. *Have you ever been armed with a weapon in which you have never received Departmental training?*

Yes	No
18%	82%

Q. *Would you be capable of field-stripping and servicing the firearms on issue to your station?*

Yes	No
85%	15%

Q. *Have any of the weapons on issue to your station failed to fire at any time?*

Yes	No	Not known
13%	80%	7%

Middle command officers added their testimony in answer to a question whether training was adequate: 78 per cent said that it was not.

The Victoria Police Association summarized its findings as follows:

Members of the Victoria Police Force are poorly equipped and undertrained to the point where the situation has become critical. Due to lack of training and inadequate equipment, policemen are not only a danger to themselves but to the community in general.²⁷

In 1975 I had written:

If one were to evaluate the calibre of a police force by the evidence of its use of firearms and by managerial practices in relation to their use, one would reluctantly be forced to the conclusion that the Victoria Police Force is an ill-trained rabble officered by insensitive buffoons.²⁸

One would like to think that there has been, or will be, an official response to the men's own opinions rendering my own criticisms and those of the Police Association redundant.

However, it is not enough that the police are trained to be better marksmen, that they learn the workings of their weapons properly so that they will not inadvertently cause them to discharge, or that they are equipped with weapons they themselves consider to be more suitable. A crucial question, particularly as far as the public is concerned, is whether they are trained to exercise mature and sensible judgment as to whether to fire their guns at all. In Greenwood's terms, is their psychological preparation for the possible use of firearms appropriate?

Greenwood himself believes that the legality of seeking to kill or wound an offender should not be governed by rules related only to the classification of the original offence, nor by the degree of danger to the police officer. Factors such as the dangerousness of the offender, the proximity of bystanders, the likelihood of ultimate escape, possible danger to the police themselves, should all be evaluated. This should be done from the point of view of deferring the use of firearms until the latest feasible moment, but, when that moment has arrived, using them without inhibitions about the possibility of killing the offender.²⁹

There is, I believe, a great deal to be said for this approach. Australian experience demonstrates that citizens, including the police's own colleagues, have been unnecessarily killed by police use of firearms because of the sense of melodrama which can develop in tense situations. A formula which would, without countervailing detriment, expand the time-scale for decision-making is to be welcomed. The corollary—when at last one shoots, do so without inhibition—is sensible also; by that time the lawfulness of so doing should have become unambiguously clear. From a police-command point of view, it is desirable that the purpose of the operation should be clear to the personnel involved; from a police deployment point of view, it is possible that such an approach might, in some kinds of situations, particularly those involving hostages, give time to get specialists to the scene. The benefit, from the point of view of the administration of the law, is that there should be less occasion for the corruption and perjury which at present these situations all too often invite.

The mention of specialists leads on to an important matter.

Whilst it now seems inevitable that Australian police will continue to have to use firearms from time to time in the course of their duty, it does not follow from this that all police should be armed whilst on duty. That is a different proposition altogether. A study should be undertaken—and it could only be done with whole-hearted police co-operation—to ascertain the types of situation in which police have actually fired their guns, what the outcome was, whether the outcome was such that orderly and efficient law enforcement was facilitated, how often police lost their firearms to offenders, etc. It might well emerge that there was much greater utility in carrying firearms in some situations than in others and, indeed, positive detriment in certain circumstances. If so, this in turn would have a bearing upon training; men likely to be assigned for duties involving greater possibility of firearms use could be trained more fully. It is obviously simpler to train a medium number of men very well than to train a great number of them.

Hawkins and Ward have raised a question which bears upon this.³⁰ A decade ago they analysed the vulnerability of Australian police and found that the more citizens a police force killed the greater the likelihood that police in the force would be killed by citizens. It is by no means clear that criminal violence is the chicken and police violence the egg; quite possibly neither part of this phenomenon is solely cause or solely effect. A more discriminating practice with regard to the police carrying of firearms could do something to break the spiral which Hawkins and Ward identified. Social phenomena are not so inexorable and predetermined that it is futile to try to find out if this would occur. Certainly, Australia should be prepared to experiment in an effort to forestall the ultimate development of a situation such as prevails in the United States, where police kill some 500 citizens a year and citizens kill some 100 police.

There are many questions worth asking, therefore, about police use of firearms. The issue is too important for the developing practice to be determined by police authorities alone. In the meantime, two matters stand out: police training must be improved and command-level control strengthened, and the fleeing felon rule must give way to one based essentially on the dangerousness of the particular offender.

STRATEGY FOR THE FUTURE

There is no cause, as yet, for consternation about the impact of firearms ownership and use upon Australian life. By contrast, the levels of gun ownership in the United States are so high that the resultant patterns of use have become destructive, volatile, self-perpetuating and intractable. In this sense, the United States has a firearms 'problem', and Australia does not.

However, Australia does have cause for concern. Although a total gun inventory of no more than 2.5 million spread between some 1.25 million owners is not in itself great, it must be remembered that this figure is increasing by 3 or 4 per cent each year. Moreover, firearms have an average life of fifty years or longer. The sheer size of the phenomenon is inexorably growing. Whilst this is occurring, there are already some very important issues relating to gun ownership and use which, though in themselves currently manageable, could, if ignored, grow until they compositely amount to a problem of the American kind. It is always preferable to head off such problems, if one can. For once they are upon one, all too often the only available responses are denunciatory, despairing and symbolic, as has been the case indeed in the United States.

Numerous issues about gun ownership have been identified in this book. Some are matters of fine tuning only, and will not deteriorate with the passage of time—for example, the need to rationalize the legal and control structures of clubs established under the Australian Rifle Clubs Regulations,¹ and the desirability of linking shooting more directly to wildlife conservation.² But others, in my view, require prompt action at legislative and administrative levels if they are to be managed effectively. It is with

these that the remainder of this chapter is concerned.

Before recapitulating these major issues, there is a preliminary point. It is this. I shall not attempt to set out a 'model' gun law, derived from and repairing the various deficiencies in existing legislative and administrative patterns identified by this study. This is for several reasons. First, an appropriate mode of solving a problem in one State is not necessarily an appropriate mode elsewhere; for example, the South Australian approach of delegating important policy decisions about firearms ownership to an independent administrative tribunal may well not work in a jurisdiction where police authorities are more jealous of their powers, so that to superimpose such a model could well be self-defeating. Again, there are areas where there is room for legitimate disagreement as to the optimum way of handling a problem; for example, whilst there seems to be some real doubt as to whether high-velocity rifles constitute a distinct problem from that of other rifle use, it would be unwise to suggest that this problem should be handled in one particular way to the exclusion of any other way. Finally, any such model law would in any case need to be supplemented by detailed statutory regulations for day to day operational purposes, and these of course would vary greatly according to the administrative structures, population distribution, availability of computer facilities, etc. in each State.

There is, then, no strong reason to draft a model law. What really matters is that legislators in all jurisdictions should amend firearms laws so as to take account of the main issues and problems which have been identified. Where it has also been possible to suggest a feasible solution, as for example with regard to the demonstrable need for Australian shooters to have a greater sense of safety-consciousness than they do at present, changes in the laws should take account of this. The principal features which firearms laws should contain and the main areas where social problems can be expected to arise or where further research is still needed are accordingly set out below.

1. ALL JURISDICTIONS SHOULD HAVE EFFICIENT REGISTRATION SYSTEMS FOR HANDGUNS, SHOTGUNS AND RIFLES

It is essential that a modern society should, at any given moment,

be able to ascertain how many firearms there are, of what type, and who owns them. This is because of their inherent capacity for misuse in a manner which can produce serious consequences.

That being the rationale, I do not consider it necessary that air-rifles should be registered. Whilst individual incidents involving the latter can have serious effects, the generic nature of such weapons is that they are not highly dangerous.³ It is desirable not to overload a registration system.

The converse point is that some weapons are inherently so dangerous that they should not be privately owned at all, however efficient the registration system that would keep track of them. A category of 'prohibited weapons' should be maintained,⁴ and the responsible authorities in all jurisdictions should endeavour to agree upon a uniform list. The Commonwealth government should fortify any such agreement by parallel import controls.

A recent Morgan poll⁵ indicates that the Australian populace would overwhelmingly support a compulsory registration system: 89 per cent were in favour and a mere 8 per cent were opposed. The group in favour must have included a substantial number of present gun-owners, since according to my own estimate⁶ approximately 14 per cent of persons over the age of fifteen are gun-owners. This supposition is strengthened by the fact that country-dwellers gave equal support to the idea of registration; their gun-ownership rate is, of course, much higher than the national average.⁷ Interestingly, a United States poll has also indicated strong support for gun control, even amongst gun-owners.⁸ Accordingly, the governmental apathy or faint-heartedness that has resulted in a situation where the size of the gun inventory in at least four jurisdictions⁹ is a complete mystery to police and other authorities amounts to gross irresponsibility.

2. ALL JURISDICTIONS SHOULD HAVE LICENSING SYSTEMS FOR PERSONS WISHING TO OWN REGISTRABLE FIREARMS

An initial argument in favour of this recommendation is that a registration system which is not supported by a licensing system tends not to work effectively; there are too many opportunities for a gun to get 'lost' from the records.¹⁰ A corollary is that it is not sufficient to monitor only dealers' transactions.¹¹

More substantially, society should be able to exercise some control over what kinds of people own firearms and why they do so. Having said that, one should stress that gun-owners are very much part of the mainstream of Australian society,¹² so that it would be inappropriate, and indeed foolish, to use a licensing system as a means of erecting almost impenetrable barriers against private gun ownership. From that point of view, the South Australian legislative model is admirable inasmuch as it starts to remove licensing decisions from the virtually untrammelled discretion of the police.¹³

That is not to say that a licence should be granted as of right. The question accordingly arises: what criteria should be applied? An initial point is that they should be stricter for handguns than for long-guns. *The single most important objective of Australian firearms licensing should be to keep the handgun inventory down to the bare minimum.* Police authorities have been reasonably successful in this,¹⁴ implementing such a policy by administrative means.¹⁵ It would be preferable, however, to spell out such criteria statutorily. They would include the criteria to be suggested below in relation to long-guns, but should be more specific as to what constitutes a 'good cause'.¹⁶ The wide range of exemptions which presently characterize the legislation of all jurisdictions¹⁷ should be curtailed; they tend to cut across the notion of good cause.

In the context of handgun control, it should also be mentioned that Australia has one enormous advantage—that it is an island possessing no local firearms industry. All handguns coming into the inventory for the first time must have been imported. Whilst H.M. Customs cannot be expected to discover all smuggled firearms, nevertheless they are better placed to control entry of handguns than are, say, the British authorities or the Canadian, who have to monitor massive numbers of entries by persons coming from places where handguns are readily available. *An evaluation of the present effectiveness of Customs' controls over legal and illegal gun imports should be made and the findings presented to the Commonwealth parliament.*

As for ownership of long-guns the criteria applicable to licences should take account of present motives for ownership.¹⁸ For example, gun collecting as a hobby or an investment is a distinct, though minor, trend; the applicable legislation should facilitate this. Likewise, sport is a good cause, whether it be hunting or competitive shooting. Job needs, particularly in farming and other

primary industry, must be covered also. *The one area where there is need for further thought is that of protection; it is questionable how far society should concede that this is a legitimate motive for gun ownership.*¹⁹ Indeed, I myself would go further and argue that it is *never* a legitimate motive for private gun ownership.

Even if a person has good cause, it is appropriate that the licensing legislation should also consider whether he is 'fit and proper'. As described earlier,²⁰ there are some very odd exclusions created as specific examples of who is not fit and proper. They need to be re-examined. In addition, there is one very important area where all jurisdictions have failed to impart significance to the notion of fitness to hold a licence; this is practical training. I have dealt with this matter, and its relationship with avoidable accidents, in chapters 7 and 8, and the arguments made there need no further exposition. The case is overwhelming; *demonstrated competence in the safe handling of firearms must be made a licence prerequisite. Gun clubs should be involved in the programme needed to achieve this.*²¹ Police resistance to this partial devolution of responsibility must be broken down or, in the last resort, circumvented.

3. IT IS ESSENTIAL THAT ALL JURISDICTIONS CO-ORDINATE THEIR LEGISLATION AND LICENSING SYSTEMS

Because of the interstate movements of people and possessions, the efficacy of any one system can be undermined by the deficiencies of another.²² The firearms laws of all jurisdictions need to be co-ordinated in the sense that their general policies and methods of implementing those policies are similar. That is not to say that they should be identical. If South Australia considers, in the light of its own conditions, that fifteen is an appropriate minimum age for acquisition of a long-gun licence whilst New South Wales favours eighteen, so be it. However, if a fifteen-year-old gun-owner moves to New South Wales, the licensing system should work so that this is made known by the South Australian authorities to those in New South Wales. Similarly, a purchase by a New South Wales fifteen-year old from a South Australian dealer—protected under the doctrine enunciated in *Chapman v. Suttie*²³—should become known as part of the normal course of events to the New South Wales authorities. Commonwealth authorities could also help plug the

gap left by that case by utilization of their power over postal services.

These examples highlight that what one is talking about is, in effect, a *national firearms register*, of guns and owners—or at least eight registers which are, to the extent of the licensing and firearms control needs of each other jurisdiction, accessible to the licensing authorities in that jurisdiction. This is not a recommendation that one would make lightly; the privacy implications of *any* national system of personal information storage (particularly, if it is computer-based, as this would have to be) are far too disturbing. So this recommendation is dependent upon the creation of a workable system of effective safeguards with regard to personal data storage banks generally.²⁴ Once this is achieved, a national firearms register should be compiled.

One does not, of course, contemplate that the mutual notification system which authorities should evolve will extend, or could extend, to anything less than a change of residence; mere visits to another State are another matter altogether. The question arises: what recognition should be accorded by one State to the licence granted by another State? What if the South Australian fifteen-year-old gun licensee of the previous example wishes to visit New South Wales for a shooting competition or a hunting trip, taking his gun with him? Reversing this example, so that a New South Wales licensee is visiting South Australia, the latter State would unquestionably recognize his right to carry and use a gun within its boundaries.²⁵ But, then, it can afford to go this far; the visiting licensee-holder will have met similar criteria and, in one crucial respect, a more demanding one—he will be at least eighteen. But, turning again to the original example, one cannot expect the less generous licensing States to allow their own policies to be circumvented by the policies of another State. In other words, *the advent of a national firearms register would not mean unqualified full faith and credit for licences granted by other States, nor would it mean the creation of a national licensing system.* Yet it would be a threadbare spirit of federalism that denied recognition to the licensing assessments of other jurisdictions altogether. Clearly, there is a need for co-ordination here, and it can only be achieved after discussion and negotiation involving all States and Territories.

4. SPECIAL ATTENTION SHOULD BE GIVEN TO PROBLEMS CREATED BY THE USE OF FIREARMS IN CRIME, PARTICULARLY ROBBERY

It is not considered that an all-out bid to reduce the general inventory of firearms would have a substantial effect upon firearms use in crime in Australia. This is not to deny that there is a correlation between gun use in casual or non-professional crime and gun availability; quite clearly, this factor has a bearing on homicide rates.²⁶ But there simply is not enough slack to be taken up, for Australia's homicide rate is a low one. The effort to reduce it further simply by stricter gun control laws could well be counter-productive, in that it would involve massive intervention in the lifestyles of a larger number of ordinary Australians, with probable consequential resentment of the law. However, the evidence suggests that even casual or unplanned *criminal violence burgeons with an increase in the handgun inventory*, and as mentioned previously this should be kept as low as possible.

Robbery is the most worrying area, however. It has been argued above²⁷ that further research of various kinds should be undertaken, and that there is time to do so before the situation irretrievably deteriorates. Nevertheless, *such research is a matter of the greatest urgency. The Commonwealth and State governments should jointly fund a national research project into patterns of robbery; it should be carried out independently of police forces but with their full co-operation.*

5. POLICE PRACTICES WITH REGARD TO THE CARRYING AND USE OF FIREARMS SHOULD BE RE-EXAMINED

It has been too readily assumed that an appropriate response to possibly increasing citizen-violence is to increase the capacity of police to be violent in retaliation or even in anticipation. In the context of firearms use, this is a highly questionable and dangerous policy—for society and for the police themselves, not just for those against whom such violence is primarily directed. Inevitably, the more that police use firearms the more they will misuse them; and the more they misuse them the greater will be the temptation or pressure to try to thwart objective review of such conduct.²⁸ Police violence can ultimately poison general relations with the public, insidiously changing in turn the nature of police functions in society.

We should pause to try to assess whether there are better ways of dealing with the problems to which the police are at present responding by greater use of firearms. Such ways could include more discriminate patterns of arming, better training and changes to the law, in particular the fleeing felon rule.

6. ISSUES RELATING TO GUN CONTROL MUST BE DEALT WITH FOR THE PUBLIC BENEFIT AND NOT SO AS TO SERVE SECTIONAL INTERESTS, SUCH AS THOSE OF THE GUN LOBBY OR THE POLICE

Discussion of the Australian gun lobby has barely surfaced in this book. True, reference has been made to its activities in opposing the introduction of the 1977 Firearms Act in South Australia²⁹ and to its influence upon the 1979 Queensland legislation.³⁰ For all that, it remains a shadowy entity. There is a gun lobby in Australia, however; it is a loose coalition of importers, dealers and some shooters, attracted together by their commercial or political concern for untrammelled gun use. It is quite possible that legislative efforts to deal with gun-ownership issues in ways such as I have suggested would stimulate the emergence of an apparently coherent lobby—as happened in Canada in 1977.³¹

The surveys described in this book did not attempt to address themselves to the qualitative commitment of Australian shooters to shooting, nor try to identify the supposed macho element or political beliefs of shooters. Such matters should make fascinating follow-up studies. Nevertheless, I believe it is likely, from the evidence that has already come to light, that the bulk of shooters would not support the more extreme postures which any gun lobby might be tempted to adopt. As pointed out earlier,³² the socio-economic profile of Australian gun-owners indicates that they are very much part of the mainstream of Australian society. Moreover, South Australian experience whilst implementing its new legislation has indicated a reassuring degree of public acceptance of reasonable procedures whose purpose has been fully and carefully explained.³³

Accordingly, Australian legislatures should have the courage to resist any gun lobby which emerges in response to proposed amendments. It would not be truly representative of the shooter community.

As for the police as a pressure group, their concern with gun use

is of course proper and understandable. This does not necessarily mean that their points of view are entitled to unquestioning acceptance. This is particularly so in the case of the use of firearms by police themselves. Without wanting to labour the point, the overall public interest in defining justly and realistically what should be the occasions for their use of potentially lethal force and in ensuring that such occasions are strictly observed must predominate over police self-interest.

With regard to firearms ownership and use by citizens, the police not unnaturally consider that they should be in a position to administer exclusively all aspects of any firearms control scheme; this is because they tend to think of guns predominantly in the context of criminal use. Consequently, they tend to be a little resistant to proposals that would have the effect of diluting their own responsibility—for example, my own proposal for making demonstrated practical competence a precondition for being considered for a licence, evaluation of such competence being entrusted to approved gun clubs.

Thus, although police pressure is different in kind from that of a gun lobby, legislators must nevertheless, where it comes to constitute a barrier against rational reform, ultimately be prepared to confront them. Of course, it is far preferable to persuade. The admirable beginnings of the 1977 South Australian scheme indicate that, once persuaded, the police themselves become enthusiastic and efficient executives of new procedures.

SUMMARY

The impact of firearms ownership and use on Australian society is well short of a crisis. But there are tangible grounds for concern. We are on the same road as the United States, though nowhere near as far along it. Accordingly, the strategy for the future should be considered now, formulated in detail soon, and implemented reasonably quickly. The various issues which have been identified in this book should not simply be allowed to drift. If that were to happen, after a decade they would have consolidated into one large problem, and by the end of the century that problem could have become unmanageable. Firearms violence would by then be a part of everyday life, and the quality of everyday life would be poisoned by anxiety and fear.

NOTES

1. A LEGAL CONSPECTUS

1. Moreover, most of the settlers came from a country which, at the time when the Australian colonies were being opened up, made little effort to impose firearms controls. Not until 1903—three years after federation—did the U.K. take any substantial steps to control firearms ownership: see generally Greenwood, *Firearms Control* (1972), chapter 1.
2. See the Pistol Licence Act 1927 (N.S.W.); the Firearms Act 1921 (Vict.); the Firearms Licence Act 1927 (Qld); the Pistol Licence Act 1929 (S.A.); the Firearms Act 1931 (W.A.); the Firearms Act 1932 (Tas.); the Firearms Registration Ordinance 1932 (N.T.); and the Gun Licence Ordinance 1925 (A.C.T.).
In some jurisdictions there was other tidying-up legislation during this period; but the above are the principal sources.
3. Firearms Act 1932 (W.A.), s.8(3).
4. The discriminatory provisions had been enacted by s.47 of the Firearms Act 1905, and were effectively repealed by Regulation 29 made under the Firearms Act 1931 (24 March 1932, at p. 391 of the *Government Gazette*).
5. This provision was eventually repealed in 1964: see s.8 of the Firearms Ordinance (No. 40 of 1964).
6. See now s.29B of the Firearms Act 1958-72 (Vict.), re-enacting a provision of the 1921 Act, and s.11A of the Firearms Act 1927-67 (Qld), re-enacting a provision introduced by the Firearms Act Amendment Act 1955.
7. See the Firearms and Dangerous Weapons Act 1973 (N.S.W.); the Firearms Act 1958 and the Firearms Act Amendment Act 1972 (Vict.); the Firearms Act 1973 (W.A.); the Firearms Act 1977 (S.A.); the Firearms Ordinance 1956 (N.T.), as amended in 1959, 1960, 1961 and 1964; and the Gun Licence Ordinance 1959 (A.C.T.).
8. Tasmania expected to pass entirely new legislation in late 1979. At the time of writing this book, no details were known to the author, however. Since this manuscript was completed, Queensland has amended the relevant legislation: see the Postscript to this chapter.

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9. Extra-parliamentary statement made in July 1973.
10. No cases are cited in Australian Current Law for the years 1974 to 1979; and only one which might have been cited is known to me (*R. v. Cremin, ex parte Ryan* [1977] Qd. R.354).
11. As will be seen in chapter 2, the New South Wales police evidently do not keep track of handguns efficiently, for they were not able to offer any sort of estimate of the number which are currently in private ownership in the State.
12. However, in the A.C.T. it seems, though the matter is far from clear, that no provision exists for appeal against an independent decision of the registrar to refuse a licence: see Gun Licence Ordinance 1959, s.7. This is probably a further indication of the fact that the registrar is expected to play what is virtually a secretarial role, the key judgments being made within the Police Department.
13. Firearms Act 1958-72 (Vict.), s.43(3).
14. The 1978 revelations of the practices of the South Australian and New South Wales police forces in compiling Special Branch files indicate that a great number of decent, law-abiding citizens may find themselves on file on the basis of gossip, hearsay, malice or infantile incompetence. Whilst these two States have taken steps to prevent such abuses recurring, similar discredited practices are still being followed in the other three mainland States and at federal level.
15. Firearms Act 1973 (W.A.), s.18(8).
16. In *R. v. Cremin, ex parte Ryan* [1977] Qd. R.354, the Full Court held that a licensee had no right to be informed of the grounds of revocation of his licence or to be heard on the matter. It seems certain that a similar decision would be reached in relation to refusal of an application for a licence.
D. M. Campbell J. attempted to leave open the question whether grounds should be made known if the aggrieved party indicates that this is for appellate purposes. However, the language of the act and the logic of the decision itself would in reality seem to have closed any such escape-valve.
17. Firearms Act 1977 (S.A.), s.7.
18. *Ibid.*, s.12(3).
19. *Ibid.*, s.10.
20. See, e.g., Firearms Act 1973-76 (W.A.), s.19A, and the Firearms Regulations gazetted on p. 121 of the *Government Gazette* of 13 January 1978.
21. Section 109 provides as follows: 'When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.' See further the section on the Australian Rifle Clubs Regulations, pp. 24-7.
22. A.L.R.C., Report No. 2 (Interim), Criminal Investigation, para. 55 (1975).
23. See generally the discussion in *Chapman v. Suttie* (1963) 110 C.L.R. 321, where the Victorian practice is fully described.

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24. Section 118 provides as follows: 'Full faith and credit shall be given, throughout the Commonwealth, to the laws, the public Acts and records, and the judicial proceedings of every State.' This section has not had such a dynamic history in Australia as has the comparable United States provision in that country. At this stage, it is extremely doubtful whether, in the context of firearms licensing, the section would operate so as to create any substantive, extra-territorial effect.
25. Firearms Regulations 1979 (S.A.), s.51.
26. Firearms Act Amendment Act 1976 (W.A.), s.2, inserting s.17A into the principal act.
27. Firearms Regulations 1979 (S.A.), s.41.
28. Firearms Ordinance, No. 43 of 1974 (N.T.), s.4, inserting s.11B into the principal ordinance.
29. [1951] S.A.S.R. 76.
30. *Ibid.*, at 81.
31. (1963) 110 C.L.R. 321.
32. However, Menzies J. (at p. 341) went out of his way to disapprove the South Australian decision, and the majority decision is implicitly irreconcilable with it.
33. (1963) 110 C.L.R. 321, 337-8.
34. *Ibid.*, at 339.
35. See, e.g., the Firearms Act 1958 (Vict.), s.33(c); the Firearms Act 1932 (Tas.), s.11(c); the Gun Licence Ordinance (A.C.T.), s.8(5).
36. Firearms Regulations 1974, r.26, as amended in 1977 (*Government Gazette*, 11 February 1977, p. 428).
37. Firearms and Dangerous Weapons Regulations, 1977 *Government Gazette*, pp. 538, 1275, 3356, 5183.
38. Firearms Ordinance 1959 (N.T.), s.6, as amended by s.3 of Ordinance No. 21 of 1961.
39. See the Police Department's General Instructions for the Administration of the Firearms Act 1973 and Regulations.
40. Firearms Act 1958-72 (Vict.), s.22AA(2) (a).
41. See Statutory Regulations 1948, No. 94, reprinted in the Commonwealth Statutory Regulations 1901-56. See also Statutory Regulations 1968, No. 56, repealing regulations 24 and 32-45 of the 1948 regulations, and Statutory Regulations 1976, Nos 37 and 192, repealing numerous other regulations and enacting various amendments.
No reprint at present exists of the regulations as they now stand.
- 41a. The figures in Table 1.2 suggest that the minimum membership provisions may no longer be strictly enforced.
42. Australian Rifle Club Regulations, r.26.
43. Firearms Act 1977 (S.A.), s.5(1), definition (b).
44. See the penultimate draft of the Firearms Regulations, 1979, Division iv.
45. In addition, the capital cost of installing a computer system suitable for this purpose and purchasing the expert advice necessary to set up a workable model is very great, as South Australia has found.
46. See generally the Firearms Act 1977 (S.A.), ss.30-34.

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47. Ibid., s.32(3).
48. See the campaign conducted by a body calling itself the National Firearms Council (S.A.) during April 1979, and note in particular the advertisement placed by that group in the *Advertiser*, 11 April 1979.
49. See Q.P.D. 1979, 870-884 (Initiation in Committee, 9 October 1979). See also, ibid. at 1520-1540 (Second Reading, 30-31 October 1979) and at 2036-2071 (Second Reading in Committee and Third Reading, 28-29 November 1979). The act was proclaimed on 21 May 1980.
50. See the schedule of repealed legislation.
51. See Firearms and Offensive Weapons Act 1979, ss.13(7), 26, 64, 65.
52. Q.P.D. 1979, 2045 (28 November 1979).
53. Ibid., at 1536-1538 (30 October 1979).
54. Firearms and Offensive Weapons Act 1979, s.11.
55. See Q.P.D. 1979, 2040 (28 November 1979).
56. Firearms and Offensive Weapons Act 1979, s.16.
57. See above, pp. 9-10.
58. Firearms and Offensive Weapons Act 1979, s.103.
59. Ibid., s.11.
60. Ibid., ss.85-95.
61. Ibid., ss.37-42.
62. Ibid., s.71.
63. Ibid., ss.55-57.

2. HOW MANY GUNS?

1. See Newton and Zimring, *Firearms and Violence in American Life*, A Staff Report to the National Commission on the Causes and Prevention of Violence (1970), chapter 1.
2. Sherrill, *The Saturday Night Special* (1973). Sherrill's estimate is relied on by Murray, 'Handguns, Gun Control Laws and Firearms Violence' (1975), 23 *Social Problems* 81.
3. Greenwood estimates that there could be two million plus shotguns in England and Wales, in addition to some 350 000 rifles and 250 000 handguns: 'Shotguns in Crime' (6 January 1979), *Justice of the Peace* p. 7.
4. See the Postscript to this chapter.
5. See Harding, 'Firearms Ownership and Accidental Misuse in Western Australia' (1975) 12 *University of Western Australia Law Review* 122, 124-7.
6. The amnesty figures were: 1953 (first amnesty since the 1931 Act), 2849; 1966, 65; 1967, 98; 1969, 9; 1970, 366; 1973, 233; 1976, 456.
7. A household was categorized as not having been contacted if (i) no one was at home during three calls, or (ii) if the lot was vacant or the house derelict, or (iii) if no one in the household spoke English. Vacant lots etc. accounted for 249 non-contacts in the non-metropolitan area. Language barriers were responsible for 12 non-contacts in the whole survey, all of them being in the Perth area.

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8. See A.B.S. Bulletins, Refs No. 13.18, 28 July 1977, and No. 4106.0, 19 October 1979.
9. First, there was no under-reporting by Western Australian respondents. The G.S.S. figures were 19.7% of households with guns and 1.77 guns per gun-owning household. If Area 5 is excluded from the 1973/74 survey, the results would have been 18.5% of households with guns and 1.59 guns per gun-owning household. If Area 5 had been included in the 1975 G.S.S. and results obtained on the same basis as in 1973/74, there would have been 26.1% of households with guns and 2.02 guns per gun-owning household. As some small part of Area 5 was included in the G.S.S., the results should be no lower than $18.5\% \times 1.59$ and no higher than $26.1\% \times 2.02$. As can be seen, they are within that range.
Using the same base of actual G.S.S. figures and projecting from them according to the same formula, one would get for the whole of Australia a figure of 27.0% of gun-owning households and 1.97 guns per household, i.e. a higher rate than in W.A. This accords with expectations, and indicates that the base figure is at least credible. (Letter to author from A.B.S., 24 February 1977.) See also the reasoning in note 10 below. It should, however, be noted that the G.S.S. data, when re-computed in 1979, produced slightly lower figures overall for W.A., though still within an acceptable range.
10. This estimate was reached as follows. In all, 41 100 Western Australian households were omitted from the A.B.S. survey. If they had all been Area 5 households and no Area 5 households had in fact been surveyed, one could on the basis of the 1973/74 survey estimate that the number of 'missing' guns was $41\ 100 \times 0.689 \times 2.50 = 70\ 795$. On that basis, the total number of guns in Western Australia would have been $70\ 795 + 91\ 700 = 162\ 495$. However, because some Area 5 households were in fact surveyed (though it is not possible to ascertain what proportion of such households) the true figure must be something less than this. Exactly how many less cannot be said with certainty, but not a great deal for the bulk of Area 5 households were certainly omitted. A generous deduction of 12 495 reduces the total W.A. gun inventory to 150 000 therefore, as at the time of the survey. The most recently available official figure at that time was 136 236 (July 1974).
11. Loc. cit. at note 5, above.
12. The A.B.S. data concentrated on owners, rather than households, and the frequency of multiple ownership within a household was not published. The 1973/74 survey indicated it was quite low, about 4-5%. The 1978 N.S.W. survey also indicated about 5% overlap, and the 1978 South Australian survey about 9%. The figure in the text allows for 8% of owners to live in households where someone else also owns a gun.
13. In relation to New South Wales, this was because it is the most populous State in Australia and the one with the greatest absolute numbers of owners and guns. In relation to South Australia, it was anticipated

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that harder data would eventually become available (i.e. official figures compiled in pursuance of the 1977 Act) thus providing an opportunity for retrospective cross-checking.

14. See chapter 1, above, pp. 28-9.
15. See chapter 3, below, p. 53.
16. Class A firearms encompasses both airguns and .22 rim-fire rifles; there was a total of 127 819 guns in that class. At the author's request the South Australia Police Department ran a computer program to identify airguns within the class, and 20 251 were found, leaving 107 568 rifles. There were also 40 008 firearms in Class D, which encompasses overwhelmingly larger calibre or centre-fire rifles. These two figures were accordingly added up to give a total of 147 576 rifles. There were 58 999 shotguns and 10 287 handguns.
17. The estimate of 121 000 owners in Table 2.11 has been minimally reduced to allow for individual owners whose only type of firearm was an airgun.

3. WHAT KINDS OF GUNS?

1. Newton and Zimring, *Firearms and Violence in American Life* (1970), chapter 1.
2. The estimate of 200 million guns is made by Sherrill, *The Saturday Night Special* (1973). It is generally agreed that the proportion of handguns in the gun inventory has increased steadily since the civil disturbances of the mid-sixties: see, e.g. Zimring, 'Firearms and Federal Law: The Gun Control Act of 1968' (1975), 4 *Journal of Legal Studies* 133, *passim*. Wright and Marston estimate that 42% of all gun-owners own at least one handgun: see 'The Ownership of Means of Destruction: Weapons in the United States' (1975), 23 *Social Problems* 93.
3. Zimring, 'Determinants of the Death Rate from Robbery: A Detroit Time Study' (1977), 6 *Journal of Legal Studies* 317; Newton and Zimring, *op. cit.* at note 1, above, chapter 8.

4. CHARACTERISTICS OF GUN-OWNERS

1. See generally Newton and Zimring, *Firearms and Violence in American Life* (1970).
2. See Wright and Marston, 'The Ownership of Means of Destruction: Weapons in the United States' (1975), 23 *Social Problems* 93. The authors analyse a 1973 N.O.R.C. survey of a national U.S. sample of 1504 respondents aged eighteen and over. This survey, apart from relying on an uncomfortably small sample, was inadequate in that questions were not asked on 'the uses of weapons, the reasons they

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are owned, the pursuit of leisure-time activities for which firearms would be appropriate, whether (or how often) the weapons are fired, whether or not they are kept loaded and ready for action'. Consequently, the conclusions which the authors were able to draw were by way of inference from responses to other questions.

All the Australian surveys asked such questions in a direct way, so that the quality of the data is much superior.

3. In chapter 1, South Australia is characterized as being now a stricter licensing State than Victoria. However, in a context where past conduct is being assessed, past licensing laws are the relevant criterion of strictness. Before 1977 Victoria was certainly a stricter State than South Australia in this regard.
4. Astonishingly, neither the Harris poll relied on by Newton and Zimring nor the N.O.R.C. poll analysed by Wright and Marston appears to have elicited ownership rates by sex in the United States. Wright and Marston, in seeking to identify 'social characteristics' of gun-owners, thus fail to control for sex difference.
5. This table has been calculated from the 1977 computer print-outs. In the 1979 A.B.S. Report, material is not available in this way.
6. *Loc. cit.* at note 2 above, p. 97.
7. The occupational categories are the standard Australian Bureau of Statistics ones: see further A.B.S. Report on Firearms Ownership, Catalogue No. 4106.0, 19 October 1979.
8. See Harding, 'Firearms Ownership and Accidental Misuse in Western Australia' (1975), 12 *University of Western Australia Law Review* 122, 129.
9. See generally chapter 8.
10. See generally chapter 1.
11. See generally Forsyth, *Firearms in New Zealand* (1977), pp. 5, 6, 74.
12. *Ibid.*, p. 4. See also pp. 36-51.

5. MOTIVES FOR OWNING FIREARMS

1. See e.g. the material cited scathingly by Bruce-Briggs, *The Great American Gun War* (Second Amendment Foundation Reprint, pp. 23-4, first published in the Fall 1970 edition of *The Public Interest*).
2. See, e.g. Kates, 'The Great Gun Control Debate' (1976), at p. 18: 'More subtly, the police may favour gun control because it promotes dependency upon them by diminishing the people's power to protect themselves.'

In similar vein see Caplan, *The Second Amendment Revisited* (Second Amendment Foundation reprint of an article first published in the *Fordham Law Review*, Fall 1976). At page 22, Caplan states: 'What [the right to bear arms] does mean is that the people are to be allowed by government to retain the ability to obtain, keep and practice with firearms, in order that they may always be in a position to

exercise their right of self-preservation and defence, as well as to join and serve effectively in the appropriate militia to restore the Constitution, should the need arise.'

3. The figures were as follows:

	<i>Sport</i>	<i>Job</i>
N.S.W.	29.5%	31.6%
S.A.	38.1	26.7

4. See chapter 3, above, pp. 56-7.
5. See chapter 1, above, p. 30.
6. As noted earlier in the chapter, the A.B.S. seemed to have some difficulty in reconciling the initial and the re-processed Queensland data.
7. See chapter 1, above.
8. Bruce-Briggs, loc. cit. at note 1 above, refers at p. 3 to a recent Harris poll, though he does not give the exact date.
9. Wright and Marston, 'The Ownership of Means of Destruction: Weapons in the United States' (1975), 23 *Social Problems* 93.
10. Ibid., at p. 101.
11. See Report 13, *Who are the Victims* (1974), N.S.W. Bureau of Crime Statistics and Research, at p. 9; but cf. p. 12.
12. Balkin, 'Victimisation Rates, Safety and Fear of Crime' (1979), 26 *Social Problems* 343.
13. Repetto, *Residential Crime* (1974), p. 5.
14. See generally Howard, *Criminal Law* (The Law Book Co. Ltd, Sydney, 1977), pp. 90-4. Note also Harding, *Police Killings in Australia* (1970), pp. 33-40.
15. See generally Howard, op. cit., pp. 136-9; Glanville Williams, *Textbook of Criminal Law* (Stevens, London, 1979), pp. 468-76.
16. Repetto, op. cit. at note 13 above, p. 5.
17. Conducted by McGuire and Bennett, Centre for Criminological Research, Oxford University. As yet unpublished.
18. See generally chapter 8, above.
19. Yeager et alia, *How Well Does the Handgun Protect You and Your Family?* (1976), p. 7.
20. *The Control of Firearms in Great Britain: A Consultative Document* (1973), Table 20.
21. Ibid., paras 19-22.
22. See generally the U.C.R., comparing Australian figures with such cities as Denver (population 1.4 million) and Pittsburgh (population 2.4 million).
23. The comparable U.S. figure is about 25 times greater, though even this of course is only 1 in 200.
24. See *Armed Robbery*, Research Report 2, N.S.W. Bureau of Crime Statistics and Research, Appendix 1 (December 1977).
25. Ibid., Appendix 2.
26. Ibid.
27. Ibid., Table 7.
28. Lettkemann, *Crime as Work* (1973), pp. 114-15.
29. Op. cit. at note 24 above, p. 44.

6. MODES OF ACQUISITION

1. Firearms Act 1977 (S.A.), s. 1.
2. Ibid., ss. 23, 24.
3. Regulation 36(2).
4. Firearms Act 1977 (S.A.), ss. 25, 26.
5. Regulation 23.
6. Firearms Act 1977 (S.A.), s. 22.
7. The detailed findings were as follows. The second-hand market accounted for the disposition of 54% of handguns, 46% of rifles and 44% of shotguns. Dealers participated in only 42% overall of the second-hand market, though they had a monopoly of the new gun market.
One anomaly that should be noted is that under the 1938 Act it was possible for anyone to obtain the status of a dealer upon payment of a fee of \$1. In fact, 32 000 individuals had actually done so under the Act. The benefit of doing so was that they themselves were entitled to purchase guns from other States, even though they were in reality mere individual owners. The figures of general disposition of firearms through dealers refer to genuine dealers, i.e. those in the trade as a business.
8. Zimring, 'Firearms and Federal Law: The Gun Control Act of 1968' (1975), 4 *Journal of Legal Studies* 133-98.
9. Ibid., at p. 142.
10. Newton and Zimring, *Firearms and Violence in American Life* (1970), p. 94.

7. TRAINING AND SAFETY-CONSCIOUSNESS OF GUN-OWNERS

1. For evidence that police firearms training may sometimes leave something to be desired, see Harding, 'Changing Patterns of the Use of Lethal Force by Police in Australia' (1975), 8 *A.N.Z. Journal of Criminology* 125, 133-6. See also chapter 12, at pp. 152-7.
2. Gun clubs may, of course, be clubs operating under the Australian Rifle Club Regulations. However, the material cited in chapter 1, at pp. 25-7, indicates that the essential character of such clubs is now civilian rather than military.
3. See Firearms Act 1973 (W.A.), s. 25(9)(a); Firearms and Dangerous Weapons Act 1972 (N.S.W.), s. 42(2); Firearms Regulations 1979 (S.A.), ss. 12(1), 12(2).
4. The 1973/74 W.A. Survey results were as follows:

	<i>Children in gun-owning households</i>	<i>Children in non-gun-owning households</i>
Metropolitan	1.30	1.18
Rural	1.56	1.10

5. See A.B.S. Report, pp. 3-4.

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6. Regulation 7(6).
7. Firearms Regulations 1979 (S.A.), s. 25(4).
It should also be noted that pre-1980 firearm owners were exempted from the requirement to take the written examination as a prerequisite to obtaining a licence under the new legislation: s.25(2).

8. FIREARMS ACCIDENTS

1. N.S.W. Bureau of Crime Statistics and Research, *Accidental Shootings*, Statistical Report 1, Series 2 (April 1975).
2. Harding, 'Firearms Ownership and Accidental Misuse in Western Australia' (1976), 12 *University of Western Australia Law Review* 122.
3. Harding, 'Firearms Ownership and Accidental Misuse in South Australia' (1978), 6 *Adelaide Law Review* 271.
4. Memorandum of N.S.W. Bureau of Crime Statistics and Research, 15 January 1979.
5. The exact period was from 1 July 1973 until 31 March 1977.
6. See Table 4.3., above.
7. Ibid.
8. See Table 7.1, above.
9. See pp. 87-8, above.
10. See Table 8.2, above.
11. Forsyth, *Firearms in New Zealand* (1977), 36-52.
12. These figures relate to accidents occurring in the period 1930-66; data were not available for the later period.
13. There was a total of 161 accidents in the three-year period analysed, yet 230 causes are assigned for them.
14. Newton and Zimring, *Firearms and Violence in American Life*, chapter 5.
15. Ibid., at 28-9. The authors consider that this estimate is too high, but do not suggest an alternative figure.
16. See op. cit., note 1 above, at pp. 4-5.
17. Rushforth, Hirsch, Ford and Adelson, 'Accidental Firearms Fatalities in a Metropolitan Count, 1958-73' (1975), 100 *American Journal of Epidemiology* 499.
18. Op. cit., at note 14 above, pp. 29-32.
19. Rushforth et alia, op. cit. at note 17 above.
20. Peace and Security: Questions and Answers regarding Proposed Gun Control Legislation (Department of Justice publication, 1977) p. 5.
21. This comment is based on the estimate made by the Canadian Department of Justice that there are some 700 000 handguns in private ownership in Canada, and on the assumption that there are no less than 24 million and no more than 60 million handguns in private ownership in the United States (see p. 37, above).
22. Greenwood, *Firearms Control*, chapter 12.

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23. See op. cit. at note 1, above, p. 10.
24. Forsyth, op. cit. at note 11, above, pp. 45-6.
25. Friedland, 'Gun Control: The Options' (1975-76), 18 *Criminal Law Quarterly* 29, 36.
26. See Harding, 'Firearms Ownership and Accidental Misuse in Western Australia' (1976), 12 *University of Western Australia Law Review* 122, 134-6; Harding, 'Firearms Ownership and Accidental Misuse in South Australia' (1978), 6 *Adelaide Law Review* 271, 281-3.
27. See chapter 1, above, at p. 22.
28. Ibid.
29. Ibid., at pp. 22-3.
30. See chapter 7, above, at p. 94.
31. Canadian Criminal Code, ss.95, 104(1).
32. Ibid., s.104(2).
33. Ibid.
34. s.104(3).
35. Ibid.
36. s.104(2).
37. See loc. cit. at note 25, above.

9. THE USE OF FIREARMS IN SUICIDE

1. N.S.W. Bureau of Crime Statistics and Research, *Intentional Shootings*, Statistical Report 2 of Series 2 (May 1975), p. 1.
2. Farberow and Schneidman, *The Cry for Help* (1961), p. 35.
3. See chapter 4, at pp. 61-2, above.
4. Another way would be to conduct longitudinal studies of failed suicides, by method of initial attempt, so as to ascertain their rate of further attempts and ultimate success. Such a study would, in my view, be intrusive and should not be undertaken.
5. See op. cit. at note 1, above, p. 4.
6. See chapter 2, at pp. 47-8, above.
7. See chapter 7, at pp. 91-4, above.
8. Marks and Stokes, 'Socialisation, Firearms and Suicide' (1976), 23 *Social Problems* 622.
9. The 1968 Harris Poll conducted for the National Commission on the Causes and Prevention of Violence showed that 59% of southern households were gun-owning, as against 33% of northeast and 49% of western households.
10. Marks and Stokes, loc. cit. at note 7 above, p. 628.
11. The subjects were samples of southern and non-southern college students, rather than random population samples.
12. *Firearms and Violence in American Life*, p. 36.

10. THE USE OF FIREARMS IN HOMICIDE AND SERIOUS ASSAULT

1. Wolfgang, *Patterns of Criminal Homicide* (1958), pp. 82-3.
2. Greenwood, *Firearms Control* (1972), p. 132.
3. (1967-8) 35 *University of Chicago Law Review* 721.
4. *Ibid.*, p. 723.
5. *Ibid.*, p. 724.
6. *Ibid.*
7. *Ibid.*, pp. 734-5.
8. Greenwood, op. cit. at note 2 above, p. 131.
9. Benenson, 'A Controlled Look at Gun Controls' (1968), 14 *New York Law Forum* No. 4.
10. Murray, 'Handguns, Gun Control Laws and Firearms Violence' (1975), 23 *Social Problems* 81.
11. See Zimring, 'Firearms and Federal Law: The Gun Control Act of 1968' (1975), 4 *Journal of Legal Studies* 133-98, passim.
12. Zeisel, 'The Deterrent Effect of the Death Penalty: Facts v. Faith' (1976), *The Supreme Court Review* 333.
13. Murray's work is criticized as a statistical model by O'Connor and Lizotte, 'The "Southern Subculture of Violence" Thesis and Patterns of Gun Ownership' (1978), 25 *Social Problems* 420.
14. Hardy and Stompoly, 'Of Arms and the Law' (1974), 51 *Chicago-Kent Law Review* 62.
15. *Ibid.*, p. 105.
16. *Ibid.*, p. 106.
17. *Ibid.*, pp. 106-7.
18. *Ibid.*, p. 107.
19. Gun and Knife Attacks, Statistical Report 9, New South Wales Bureau of Crime Statistics and Research (1974).
20. *Ibid.*, p. 5.
21. Block, 'Homicide in Chicago: A Nine-Year Study' (1976), 66 *Journal of Criminal Law and Criminology* 496.
22. Zimring, 'The Medium is the Message: Firearm Caliber as a Determinant of Death' (1972), 1 *Journal of Legal Studies* 97.
23. *Ibid.*, p. 122.
24. Zimring, 'Street Crime and New Guns: Some Implications for Firearms Control' (1976), 4 *Journal of Criminal Justice* 95.
25. *Ibid.*, p. 103.
26. *Ibid.*
27. See chapter 11.
28. See chapter 3, above, at pp. 53-5.
29. See chapter 3, above, at p. 56.

11. FIREARMS USE IN ROBBERY

1. N.S.W. Bureau of Crime Statistics and Research, *Intentional Shootings*, Statistical Report 2, Series 2 (May 1975), p. 9.
2. See chapter 2, pp. 47-8, above.
3. It is not possible to calculate precise figures from the Uniform Crime Reports.
4. Harding, 'Firearms Use in Crime' [1979] *Criminal Law Review* 765, passim.
5. Vinson and Marshall, 'Crime in our Cities' (1973) 8 *Australian Journal of Social Issues* 201.
6. The 1977 rates were: Washington 35.2; San Francisco 37.9; Pittsburgh 15.5; St Louis 31.2; Houston 26.9; Cleveland 36.5; Boston 23.4; Baltimore 41.2.
7. See Lettkemann, *Crime as Work* (1973), passim.
8. *Ibid.*, at p. 89.
9. Skogan, 'Weapon Use in Robbery', in Inciardi and Pottieger, *Violent Crime: Historical and Contemporary Issues* (1978).
10. N.S.W. Bureau of Crime Statistics and Research, *Armed Robbery*, Research Report 2 (December 1977).
11. Skogan, loc. cit. at note 9, above, p. 68.
12. Lettkemann, op. cit. at note 7, above, p. 114.
13. This can be inferred, in as Australian context, from *Armed Robbery*, op. cit. at note 10, above, Tables 2 and 3.
14. Their use may even, paradoxically, be a hazard to the offender, for more police attention can be expected to be given to armed robberies where firearms are actually used and the clear-up rate is generally higher than the overall clear-up rate for robbery.
15. Block, 'Homicide in Chicago: A Nine-Year Study, 1965-73' (1976) 66 *Journal of Criminal Law and Criminology* 496, 507-8.
16. Zimring, 'Determinants of the Death-Rate from Robbery: A Detroit Time-Study' (1977) 4 *Journal of Legal Studies* 317, 327.
17. S.A. Office of Crime Statistics, *Robbery in South Australia* (1980) Report 11.3.
18. Greenwood, *Firearms Control*, p. 172.
19. See p. 134, above.
20. However, it is possible to deduce from the data which are presented that no more than five of the six killings resulted from firearms-use.
21. Skogan, loc. cit. at note 9, above, p. 65.
22. Block, loc. cit. at note 15, above, pp. 506-9.
23. Zimring, loc. cit. at note 16, above, p. 321.
24. *Ibid.*, pp. 321-3.
25. *Ibid.*, p. 325.
26. *Ibid.*, footnote 4 at pp. 318-19.
27. *Ibid.*, p. 325.
28. *Ibid.*, p. 326.
29. *Ibid.*, p. 327.
30. Skogan, loc. cit. at note 9, above, p. 65.

31. See e.g., Newman, 'Firearms and Violent Crime: Conversations with Protagonists', in Newton and Zimring, *Firearms and Violence in American Life*, Appendix E; Conklin, *Robbery and the Criminal Justice System* (1972), passim.
32. *Armed Robbery*, loc. cit. at note 10, above, p. 43.
33. The author distributed questionnaires to all police commissioners in the following terms:
Do you consider that the use of a firearm in carrying out a criminal purpose should
 - (a) attract a mandatory excess period of imprisonment beyond that imposed for the principal offence itself?
 - (b) form the basis of an increase in the maximum penalty for the principal offence?
 - (c) merely be left to the Judge to take into account when deciding how great a sentence to impose for the principal offence?
 Responses were:

	Yes	No
(a)	3	5
(b)	4	4
(c)	4	4
34. *Armed Robbery*, op. cit. at note 10, above, pp. 41, 43.
35. See chapter 5, p. 78, above.

12. THE USE OF FIREARMS BY POLICE

1. Fuller documentation of what follows can be found in Harding, 'Changing Patterns of the Use of Lethal Force by Police in Australia' (1975), 8 *Australia and New Zealand Journal of Criminology* 125, 128.
2. See A.L.R.C.2, *Criminal Investigation*, para. 55 (1975). It will be recalled that in the Northern Territory police are exempt from the requirements relating to handguns: see chapter 1, p. 13, above.
3. Penguin Books Ltd, Melbourne, 1970.
4. In the common law States (N.S.W., Victoria and South Australia), by dint of the common law. As regards the Code States, see the Criminal Code Act 1899 (Qld), s.254; the Criminal Code Act 1913 (W.A.), s.231; the Criminal Code Act 1924 (Tas.), s.30. In Tasmania, the common law position has only been fully maintained with respect to Appendix A crimes: see s.31.
5. See generally Leigh, *Police Powers in England and Wales* (1975), pp. 43-7, for a full discussion of the law.
6. *McKay v. R.* [1957] V.R. 560, 563 (Full Court). The High Court of Australia has endorsed this doctrine (*Howe v. R.* (1957) 100 C.L.R. 448, on appeal from South Australia) and has since affirmed its own decision in preference to the Privy Council decision in *Palmer v. R.* [1971] 1 All E.R. 1077: see *Viro v. R.* (1978) 52 A.L.J.R. 418

7. *R. v. Masnec* [1962] Tas. S.R. 254; *R. v. Johnston* [1964] Qld R.1.
8. Foster 271; 1 Hale 481; 1 East P.C. 302.
9. See *R. v. Turner* [1962] V.R. 30. It was suggested in this case that if it is lawful to make the particular arrest *without warrant* (as it was at common law in relation to felonies and treasons), then it is likewise lawful to shoot as a means of arrest if the person cannot otherwise be arrested within the immediate situation. At a time when it has become standard legislative practice to permit arrest without warrant of persons found committing even summary offences, such a principle has far-reaching implications. The one qualification expressed in *Turner* was that the force used must in all the circumstances be reasonable, a formula which offers a bulwark against the extension of the principle if the courts decide to use it.
10. Queensland Code, s.256; W.A. Code, s.233; Tasmania Code, s.30(2).
11. *Ibid.*
12. Harding, *Police Killings in Australia*, p. 16. See also pp. 218-19.
13. Harding, loc. cit. at note 1, above, pp. 130-3.
14. See, e.g., A.L.R.C. Reports 1 and 9, and in particular paras 20-50 of Report 9 where Australian developments since 1975 are described comprehensively.
15. Inquest transcript, p. 40.
16. 2nd Report, Recommendation 4(4)(b), p. 126.
17. *Police Killings in Australia*, pp. 242-3.
18. A.L.R.C.2, para. 54.
19. *Beim v. Goyer* [1965] S.C.R. 638.
20. Greenwood, *Tactics in the Police Use of Firearms*, p. 4.
21. See Harding, loc. cit. at note 1, above, p. 135 and footnote 34.
22. 2nd Report, Recommendation 4.4(c).
23. See Harding, loc. cit. at note 1, above, pp. 132-3.
24. *Ibid.*, pp. 134-5.
25. See A.L.R.C. 2, quoting a letter from Greenwood to the author.
26. Harding, loc. cit. at note 1, above, pp. 133-5.
27. Police Association Victoria—(the official publication of the employees' organization of the Victoria Police Force), Vol. 47, No. 26, pp. 19-29, at p. 27 (April 1978).
28. Harding, loc. cit. at note 1, above, p. 135.
29. Greenwood has developed this thesis cogently in an important new book, *Police Tactics in Armed Operations* (1979).
30. Hawkins and Ward, 'Armed and Disarmed Police: Police Firearms Policy and Levels of Violence' (1970), 7 *Journal of Research in Crime and Delinquency* 188.

13. STRATEGY FOR THE FUTURE

1. See chapter 1, pp. 25-7, above.
2. See chapter 1, pp. 31-2, above.

Notes

3. This emerges clearly from firearms casualty report forms, which almost never involve air-rifles. It also emerges from the Criminal Statistics for England and Wales; each year, although air-rifle use is involved often in the minor areas of criminal damage and non-dangerous wounding, it features very little in the serious offences.
4. See chapter 1, p. 19, above.
5. August 1979.
6. See Table 2.11, above.
7. See Tables 2.6, 2.9 and 2.10, above.
8. See Wright and Marston, 'The Ownership of Means of Destruction in the United States' (1975), 23 *Social Problems* 93, 103-6.
9. See Table 2.2, above.
10. See chapter 6, pp. 80-2, above.
11. Ibid., pp. 84-5. See also Zimring, 'Firearms and Federal Law: The Gun Control Act of 1968' (1975), 4 *Journal of Legal Studies* 133, passim.
12. See chapter 4, above, passim.
13. See chapter 1, pp. 10-11, above.
14. See Table 2.1, above.
15. See chapter 1, p. 5, above.
16. Ibid.
17. See chapter 1, pp. 12-16, above.
18. See chapter 5, passim.
19. See chapter 5, pp. 72-9, above.
20. See chapter 1, pp. 5-6 and 22, above.
21. See chapter 8, pp. 106-11, above.
22. See chapter 5, pp. 80-2, above.
23. (1963) 110 C.L.R. 321, discussed in chapter 1, pp. 17-18, above.
24. The Australian Law Reform Commission is currently engaged on making recommendations in this area. The exercise is being carried out in co-ordination with State law reform agencies.
25. See chapter 1, pp. 14-15, above.
26. See chapter 10, pp. 120-9, above.
27. See chapter 11, pp. 143-5, above.
28. See chapter 12, pp. 147-50, above.
29. See chapter 1, note 48, above.
30. See chapter 1, p. 34, above.
31. See chapter 8, pp. 110-11, above.
32. See chapter 4, passim.
33. The South Australian Police Department conducted a long and careful publicity campaign before the proclamation of the 1977 Firearms Act. It culminated in the very wide distribution of a pamphlet, *Before You Shoot*, whose tone is polite and whose purpose is educative. The whole campaign was an object lesson in constructive public relations and is a credit to the department.

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